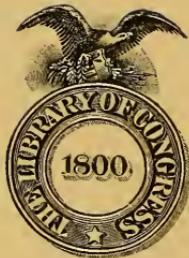


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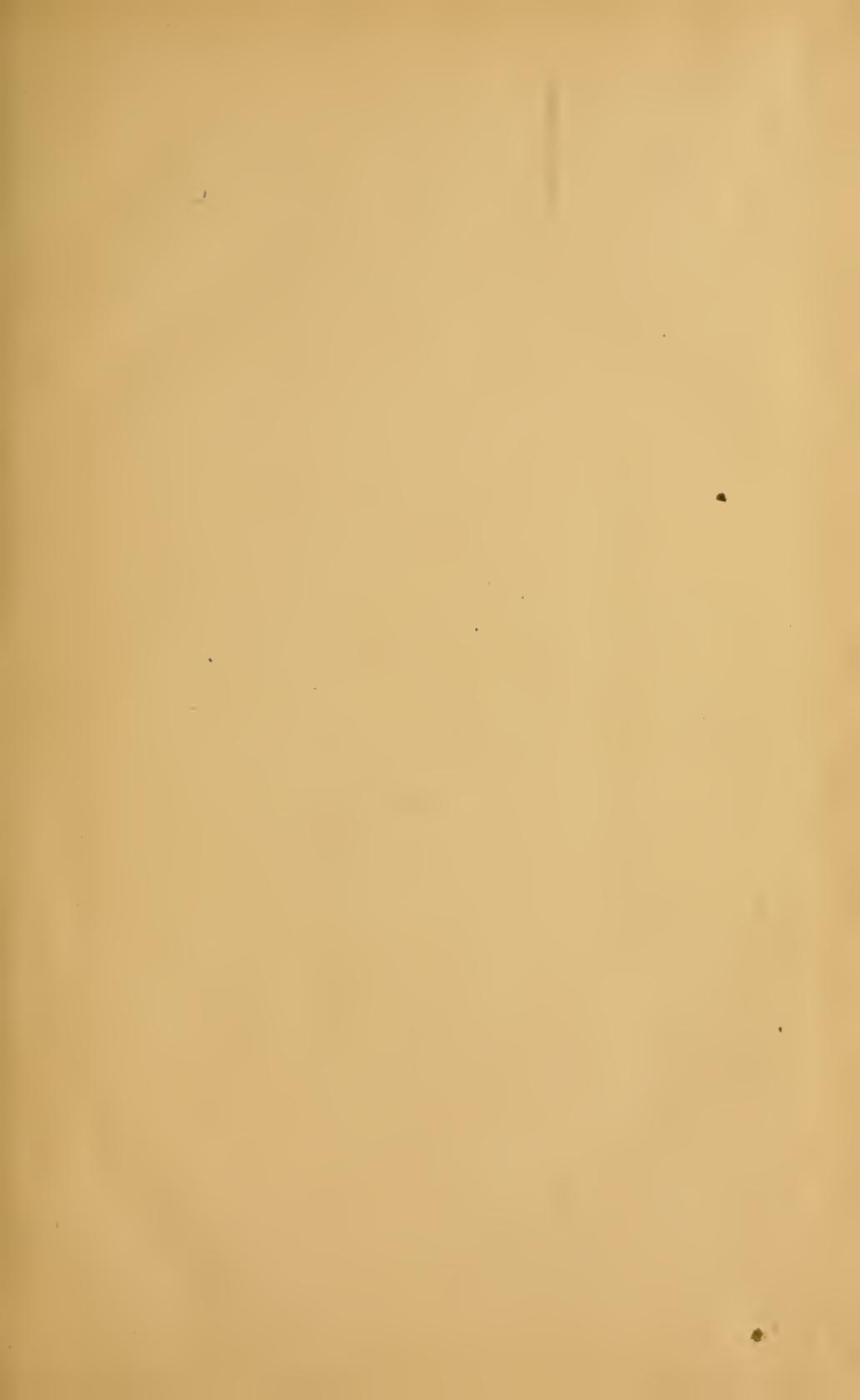
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L A W S

RELATING TO THE

PUBLIC SCHOOL SYSTEM

OF ALABAMA,

WITH AN APPENDIX OF FORMS.

1878.

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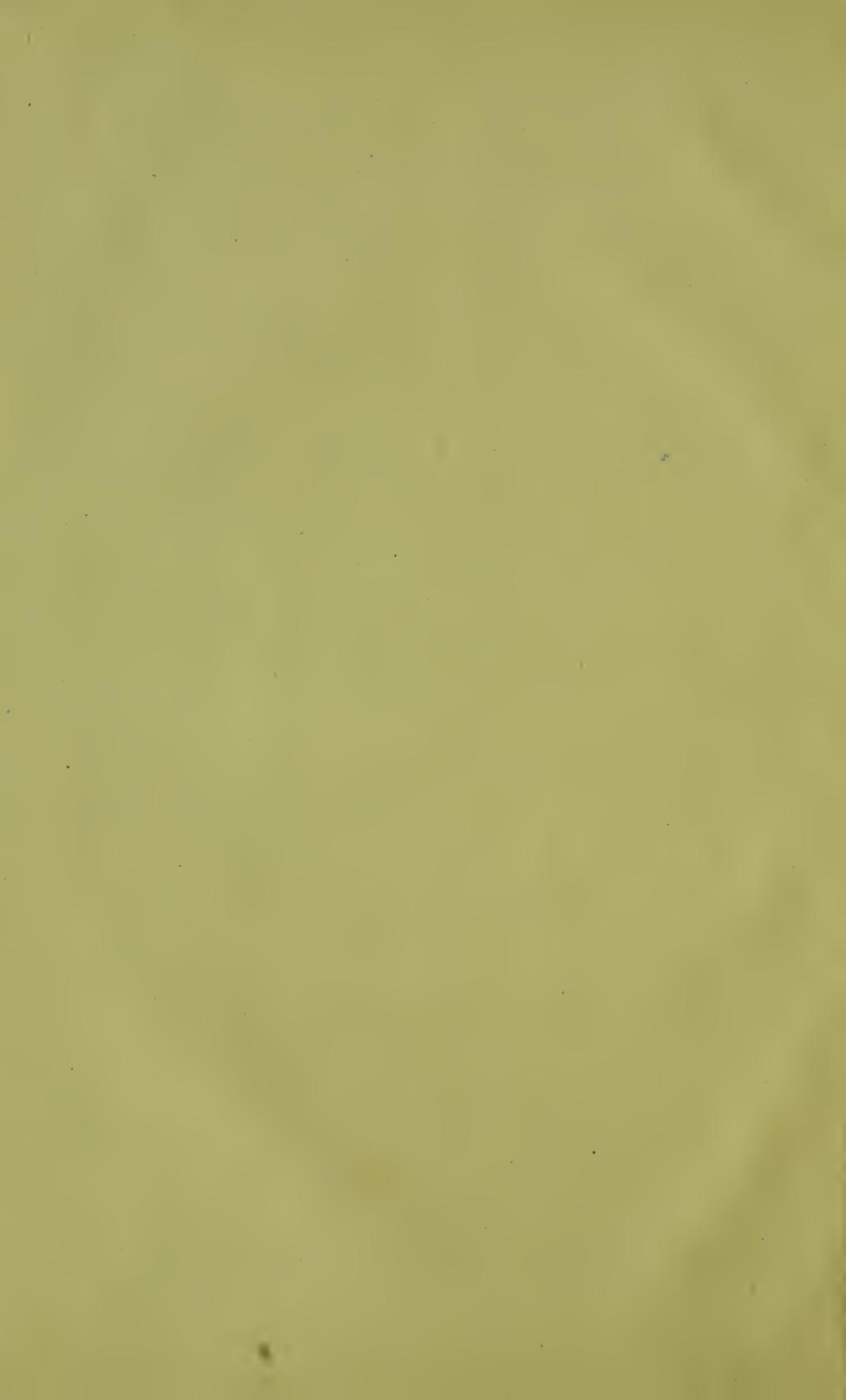
PREPARED BY

LEROY F. BOX,  
SUPERINTENDENT OF EDUCATION.

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MONTGOMERY, ALA.:  
BARRETT & BROWN, STATE PRINTERS.

1878.



L A W S

RELATING TO THE

PUBLIC SCHOOL SYSTEM

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OF ALABAMA,

WITH AN APPENDIX OF FORMS.

1878.

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PREPARED BY

LEROY F. BOX,

SUPERINTENDENT OF EDUCATION.

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MONTGOMERY, ALA.:

BARRETT & BROWN, STATE PRINTERS.

1878.

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**EXCHANGE.**

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DEPARTMENT OF EDUCATION, }  
MONTGOMERY, ALA., Feb. 4, 1878. }

By the Act "to organize and regulate a system of public instruction for the State of Alabama," approved February 8, 1877, it is made the duty of the Superintendent of Education to "prepare and have printed in pamphlet form by the State printer, \* \* \* \* all laws, rules and regulations pertaining to the public school system of the State, and cause the same to be distributed to the county superintendents of education and other officers connected with the school system," &c. Pursuant to such requirement this pamphlet has been prepared.

The Act referred to contains no express words of repeal, and did not go into effect until October 1, 1877—except such of its provisions as "fix and regulate the compensation of county superintendents, and the expenses of the department of education." The school laws in force prior to the passage of this act remained in force until superseded by it, October 1, 1877, and were retained in, and adopted as a part of, the Code of 1876. But what of such provisions of the former law as are not repugnant to the subsequent act? Do they remain in force since it went into effect? These are important questions not entirely free from difficulty.

The courts do not favor the repeal of statutes by implication, merely. They adhere to the long settled principle, that in the absence of express words of repeal, a subsequent act repeals only such provisions of the former law as are directly repugnant to it.

But the Act of February 8, 1877, it is believed, falls within another principle—also well settled in American jurisprudence—growing out of the frequent revision of statutes in this country. It is this: Where an act containing no express words of repeal, is evidently intended as a revision of the entire subject treated in former statutes, it repeals such former statutes in toto; and sections or parts of the former law omitted in the revision, are not to be revived by construction, but

are to be regarded as annulled.—(Sedgwick on the construction of statutory and constitutional law). And, though there should be a plain *casus omissus*, the courts will not supply it. It can be supplied only by legislation.

With reference to this principle, the following pages have been prepared. They contain, it is believed, “all the laws, rules and regulations” (now in force) “pertaining to the public school system of the State.” These comprise:—the constitutional provisions relating to education; the legislation of 1876-7; laws relating to the lease and sale of school lands; local school laws; laws establishing and regulating Normal Schools; provisions for summary proceedings against defaulters to the school revenue; and sections of the Penal Code which prescribe punishment for the embezzlement or other improper use of school moneys. These have been compiled from the Code of 1876, in such manner as to retain the numbers of sections (in parenthesis) as they stand in the Code; but for convenience of reference the sections are also numbered from one, consecutively. Such transposition and change of numbers of chapters and articles have also been made as convenience of arrangement suggested.

The Act of February 8, 1877, being regarded as revisory of, and designed to be a substitute for the school laws then in force and embraced in the Code of 1876, it is believed that only such sections of the latter remain in force as are not repugnant to the former and relate to the duties of such officers as are not created by school laws. These—with some others which, it is thought, contribute materially to a proper understanding and administration of the Act of 1877—are inserted, as notes with proper references, at the bottom of the pages.

For the use and convenience of school officers and teachers, an Appendix of Forms has been added, which, it is hoped, will bring about uniformity of practice under the present laws.

LEROY F. BOX,  
Superintendent of Education.

# CONSTITUTIONAL PROVISIONS.

## STATE CONSTITUTION.

### ARTICLE XIII.

#### EDUCATION.

SECTION 1. The General Assembly shall establish, organize and maintain a system of public schools throughout the State for the equal benefit of the children thereof, between the ages of seven and twenty-one years; but separate schools shall be provided for the children of citizens of African descent.

SEC. 2. The principal of all funds arising from the sale or other disposition of lands or other property, which has been or may hereafter be granted or entrusted to this State, or given by the United States, for educational purposes, shall be preserved inviolate and undiminished; and the income arising therefrom shall be faithfully applied to the specific objects of the original grants or appropriations.

SEC. 3. All lands or other property given by individuals, or appropriated by the State for educational purposes, and all estates of deceased persons who die without leaving a will or heir, shall be faithfully applied to the maintenance of the public schools.

SEC. 4. The General Assembly shall also provide for the levying and collection of an annual poll tax, not to exceed one dollar and fifty cents on each poll, which shall be applied to the support of the public schools in the counties in which it is levied and collected.

SEC. 5. The income arising from the sixteenth section trust fund, the surplus revenue fund, until it is called for by the United States Government, and the funds enumerated in sections three and four of this article, with such other moneys to be not less than one hundred thousand dollars per annum, as the General Assembly shall provide by taxation or otherwise, shall be applied to the support and maintenance of the public schools, and it shall be the duty of the General Assembly to increase, from time to time, the public school fund, as the

condition of the treasury and the resources of the State will admit.

SEC. 6. Not more than four per cent. of all moneys raised, or which may hereafter be appropriated for the support of public schools shall be used or expended otherwise than for the payment of teachers employed in such schools. *Provided*, That the General Assembly may, by a vote of two-thirds of each house, suspend the operation of this section.

SEC. 7. The supervision of the public schools shall be vested in a Superintendent of Education whose powers, duties, term of office and compensation shall be fixed by law. The Superintendent of Education shall be elected by the qualified voters of the State in such manner and at such time as shall be provided by law.

SEC. 8. No money raised for the support of the public schools of the State shall be appropriated to or used for the support of any sectarian or denominational school.

SEC. 9. The State University and the Agricultural & Mechanical College shall each be under the management and control of a Board of Trustees. The Board for the University shall consist of two members from the congressional district in which the University is located, and one from each of the other congressional districts in the State. The Board for the Agricultural & Mechanical College shall consist of two members from the congressional district in which the college is located and one from each of the other congressional districts in the State. Said trustees shall be appointed by the Governor by and with the advice and consent of the Senate, and shall hold office for a term of six years, and until their successors shall be appointed and qualified. After the first appointment each Board shall be divided into three classes as nearly equal as may be. The seats of the first class shall be vacated at the expiration of two years, and those of the second class in four years, and those of the third class at the end of six years, from the date of appointment, so that one-third may be chosen biennially. No trustee shall receive any pay or emolument other than his actual expenses incurred in the discharge of his duties as such. The Governor shall be *ex-officio* President and the Superintendent of Education *ex-officio* a member of each of said Boards of Trustees.

SEC. 10. The General Assembly shall have no power to change the location of the State University or the Agricultural & Mechanical College as now established by law, except upon a vote of two-thirds of the members of the General Assembly, taken by yeas and nays, and entered upon the journals.

SEC. 11. The provisions of this article, and of any act of the General Assembly passed in pursuance thereof, to estab-

lish, organize and maintain a system of public schools throughout the State, shall apply to Mobile county only so far as to authorize and require the authorities designated by law to draw the portion of the funds to which said county will be entitled for school purposes, and to make reports to the Superintendent of Education as may be prescribed by law. And all special incomes and powers of taxation as now authorized by law for the benefit of public schools in said county, shall remain undisturbed until otherwise provided by the General Assembly; *Provided*, That separate schools for each race shall always be maintained by said school authorities.

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## STATUTORY PROVISIONS.

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### CHAPTER 1.

[*Code of 1876—Part I, Title II, Chapter 3.*]

#### SCHOOL FUND.

§ 1. (1002). *What is the School Fund.*—The school funds, within the meaning of this chapter, are :

1. The principal of all funds arising from the sale, or other disposition of lands or other property, which has been, or may hereafter be granted or entrusted to the State, or given by the United States for educational purposes.

2. All lands or other property given by individuals, or appropriated by the State for educational purposes.

3. All estates of deceased persons who die without leaving a will or heir.

4. The annual poll tax, not to exceed one dollar and fifty cents, to be applied to the support of the public schools in the county in which it is levied and collected.

5. The sixteenth section trust fund, being the proceeds of certain lands granted by congress for the use of schools in the valueless sixteenth sections, by act passed August 11, 1848.

6. The surplus revenue fund deposited with this State by the United States, until it is called for by the latter.

## CHAPTER 2.

## ARTICLE I.

## THE PUBLIC SCHOOL REVENUE.

§ 2 (1006). *Annual Public School Revenue.*—For the maintenance of a system of public schools throughout the State, the following sums of money are hereby appropriated for each scholastic year, to-wit:

1. The annual interest, at six per cent., upon all sums of money which have heretofore been received by this State, or which may hereafter be received by this State, as the proceeds of sales of land granted or entrusted by the United States to this State, or to the several townships thereof, for school purposes.

2. The annual interest, at four per cent., on that part of the surplus revenue of the United States deposited with this State under the act of congress approved June 23, 1836.

3. All the annual rents, incomes, profits or proceeds of sales of all such lands as may hereafter be given by the United States, or by this State, or by individuals, for the support of the public schools of this State.\*

4. All such sums as may accrue to the State as escheats; such sums to be applied to the support of the public schools during the scholastic year next succeeding their receipt in the State treasury.

5. Also, the further sum of one hundred and thirty thousand dollars, from any money in the treasury not otherwise appropriated.

6. The net amount of poll tax which may be collected in this State—the poll tax collected in each county to be retained therein for the support of public schools thereof, and to be distributed and disbursed as hereinafter provided. The poll tax shall be one dollar and fifty cents on each male inhabitant over twenty-one and less than forty-five years of age, and shall be assessed and collected in such manner as may be provided by law.\* †

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\* [Code of 1876, § 1003 (6)].—All rents, incomes and profits received into the treasury of the State during the scholastic year, from all lands remaining unsold, which have heretofore been donated by the congress of the United States for the support of the public schools, shall be applied to the support of the public schools during the scholastic year next succeeding their receipt into the treasury.

\* The following act was approved January 30, 1877, viz:

SECTION 1. *Be it enacted by the General Assembly of Alabama,* That no person shall be permitted to act as an emigration agent in the counties of Barbour, Russell, Lee, Talladega, Macon, Bullock, Chambers, Sumter, Pickens, Choctaw,

§ 3 (1007). *What placed by auditor to credit of that revenue; when so placed and for what year.*—On the first day of October in each year, the auditor of public accounts shall place to the credit of the educational fund, on the books of his office, all such amounts as shall accrue to that fund for the scholastic year, beginning on that day, from the sources above mentioned, except the poll tax; and all the appropriations hereinabove provided, except the poll tax, shall accrue to the educational fund on the first day of October in each year.

§ 4 (1008). *Auditor must certify to superintendent amount of revenue for scholastic year.*—On the first day of October of each year, or as soon thereafter as practicable, the auditor of public accounts shall certify to the superintendent of education the amount of money which has accrued and been placed by him to the credit of the educational fund for the scholastic year commencing on the first day of October, stating specifically what amount has been derived from each source, and also, what unexpended balance there may be, from the appropriation of the previous year, to be carried forward. The sum so certified by the auditor to be to the credit of the educational fund shall be apportioned by the superintendent of education, and drawn and disbursed as hereinafter provided.

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## CHAPTER 3.

### ARTICLE I.

#### SCHOOL OFFICERS.

§ 5 (888). *School Officers.*—For the uniform and efficient administration of the system of public schools in this State, there shall be the following officers:

1. A superintendent of education for the State.
2. A county superintendent of education in each county.
3. Three trustees of public schools in each township or other school district.

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Pike, Conecuh, Clarke, or Montgomery, in this State, without first paying to each of said counties in which they may so operate, a license tax of one hundred dollars, such license tax to be paid as other license taxes for county purposes are now required to be paid.

SEC. 2. *Be it further enacted,* That the license taxes collected under the provisions of this act shall be used exclusively for the support of public schools in the county in which the same is paid.

† [Code of 1876.] § 1004. *County School Tax.*—Each county in this State, except the county of Mobile, is authorized to raise annually, by special tax, in the same manner as other county taxes shall be levied, upon real and personal property within the county, an amount of money not exceeding ten cents on each one hundred dollars of valuation, for the support of the common schools therein, and for providing suitable houses, and purchasing libraries and apparatus for such schools.

## ARTICLE II.

## SUPERINTENDENT OF EDUCATION; HIS ELECTION, DUTIES AND COMPENSATION.

§ 6 (889). *Election; return thereof; commission; term of office; bond.*—The superintendent of education shall be elected by the qualified voters of the State, at the next general election in August, 1878, and every two years thereafter, and the election shall be conducted in the same manner, and held at the same time, as the election for other state officers in such years, and the returns of the election for superintendent of education shall be made to the Secretary of State, in the same manner and within the same time as is now or may hereafter be required for the returns of election of other State officers to the Secretary of State. He shall be commissioned by the Governor, and shall hold his office for the term of two years, and until his successor shall have been elected and qualified; but before entering upon the duties of his office he shall take and subscribe the oath of office prescribed by the constitution of this State, and shall also give bond, with security approved by the Governor, in the sum of fifteen thousand dollars, conditioned faithfully to discharge the duties of his office so long as he shall remain therein, or perform any of the duties thereof, which oath and bond shall be filed in the office of the Secretary of State.

§ 7 (890). *Vacancy filled by Governor; term of appointee; bond and qualification.*—If at any time the office of superintendent of education should be vacant, by death, resignation, or otherwise, the Governor shall appoint a suitable person to fill such office; such appointee shall hold the office for the unexpired term, and shall give bond and qualify as hereinbefore prescribed.

§ 8 (891). *Duties of Superintendent.*—The duties of the superintendent of education shall be as follows:

1. He shall devote his time to the care and improvement of the common schools and the promotion of public education, and shall exercise a general supervision over all the educational interests of the State, and to this end he shall have power to require from county superintendents of education, township trustees and all other school officers, all such reports and other information relating to the educational fund, or the condition of the schools and the management thereof, as may be prescribed by law, or as the superintendent of education may deem important, and for the failure of any school officer to make such report, or discharge such other official duty, he may remove from office any such delinquent.

2. It shall be his duty, as far as practicable, to visit every

county in the State annually, for the purpose of inspecting the schools and their management, the accounts of county superintendents of education and other school officers, and for diffusing as widely as possible, by personal addresses and personal communication, information as to the importance of public schools and the best methods for their management, and to encourage and to assist at organizing and conducting teachers' and superintendents' institutes.

3. He shall annually distribute and apportion all money belonging to the educational fund, in such manner as may be prescribed by law, and shall see to the proper disbursement of the same; and to this end he shall keep an accurate account with all officers who may be custodians or disbursers of the school fund, or any part thereof.

4. He shall prepare all forms, and have printed and distributed properly all such blanks as may be necessary or as may be required by law, in the administration of the public school system; such printing and distribution to be done at as cheap a rate as possible, and to be paid for out of the educational contingent fund.

5. He shall also furnish the county superintendents of education, or other county school officers, all such books for keeping their accounts and records as may be necessary, and he shall prescribe a uniform manner of keeping such accounts and records.

6. He shall take receipts for all such books furnished to county school officers, and the same shall be public property, and the officers receiving the same shall take good care thereof and turn them over to their successors in office as other official records are required to be turned over; such books shall be paid for out of the educational contingent fund.

7. He shall keep a debtor and creditor account with each township or other school district in the State of all funds which may accrue to the township or school district for educational purposes.

8. He shall keep in his office an accurate account of the capital of all sixteenth section or other trust fund to which each township may be entitled; such account must show whence such fund was derived and when.

9. He shall preserve in his office all bonds of school officers, or others which may be required to be filed in his office.

10. He shall cause suits to be instituted and prosecuted against all defaulters to the educational fund, and for this purpose may employ attorneys, but shall not have power to contract to pay such attorneys out of the educational fund more than ten per centum of whatever amount may be recovered by them in the proceedings instituted and prosecuted.

11. He shall, by correspondence, exchange of official reports

and other proper means, elicit information relative to the systems of public education in other States and countries, and disseminate all useful knowledge regarding the same among the superintendents and other school officers in this State.

12. He shall collect in his office such school books, apparatus, maps, charts and specimens of improved school furniture as can be obtained without expense to the State.

13. He shall prepare and have printed in pamphlet form, by the State printer or contractor for the public printing of the State, all laws, rules and regulations pertaining to the public school system of the State, and cause the same to be distributed to the county superintendents of education and other officers connected with the school system, for the information of those interested in the educational interests of the State.

§ 9. *Reports to the Governor.*—He shall, as soon as practicable after the close of each scholastic year, make a report in writing to the Governor, and said report shall contain—

1. A brief history of his labors.

2. An abstract of the reports received by him from the county superintendents, exhibiting the condition of the public schools.

3. Estimates and accounts of expenditures of school money.

4. An itemized statement showing how the contingent fund of his department, and all other special funds or appropriations under his control, have been disposed of.

5. Such recommendations as he may make for the improvement of the school system, and the care and augmenting of the educational fund.

6. All such other matters relating to his office, and to the public schools, as he shall deem expedient to communicate.

When the report is laid before him the Governor shall direct the superintendent of education to have printed, in the same manner and upon the same conditions that other printing is done, during the recess of the general assembly, a sufficient number of copies of the report to supply the county superintendents and township trustees, and for the usual exchange with other States, and with the leading cities of the United States; and it shall be the duty of the superintendent to distribute the same as indicated in this section. He shall perform all other duties connected with his office, which are herein prescribed, or may be hereafter provided by law.

§ 10 (892). *Office at the capital, where books, papers and records must be kept; open to inspection; his presence required.*—The superintendent of education shall have an office at the capitol of the State, where the books, papers and records of his office shall be kept, and where he shall give attendance when not absent on official duties; and it shall be the privi-

lege of all persons interested to have access at all proper hours to the books of said office.

§ 11 (893). *Authority to employ clerk; salary, and out of what fund paid.*—The superintendent of education is authorized to employ a suitable clerk for service in his office, and such clerk shall be allowed an annual salary of fifteen hundred dollars, to be paid out of the educational fund.

§ 12 (894). *Salary of Superintendent, and out of what fund paid.*—The superintendent of education shall receive a salary of two thousand two hundred and fifty dollars per annum, to be paid out of the educational fund, as the salaries of other State officers are paid.

### ARTICLE III.

#### COUNTY SUPERINTENDENTS—THEIR APPOINTMENT AND DUTIES.

§ 13 (907). *County Superintendent in each county; by whom appointed.*—In each county of this State there shall be an officer designated as the county superintendent of education, who shall be appointed by the State Superintendent of Education.

§ 14 (908). *Duties of county superintendent.*—The county superintendent of education is required to discharge the following duties:

1. He must pay the teachers of public schools annually, between the first and fifteenth of October, or as soon thereafter as practicable, upon the certificate of the board of trustees of the district in which the school was taught, signed by the clerk of the board, and he shall take their receipts in duplicate, one of the receipts to be kept in his office, and one to be forwarded, with his annual report, to the superintendent of education as a voucher for money thus disbursed.

2. He must receive and take charge of any money, funds, property or proceeds of any character raised in his county by county taxation, or may accrue to him, or to the county, from gift, grant, bequest, devise, endowment or otherwise, to be used in aid of or connection with money apportioned to his county from the educational fund, and shall faithfully keep the same separate and apart from any other funds and property whatsoever; and he shall apportion, distribute and pay out all money raised in accordance with this subdivision, as the law may direct; but all money raised by local taxation in any school district, or incorporated city or town, shall be expended for the benefit of the district, city or town in which the money is raised, and by such persons and in such manner as are authorized by the laws that have been enacted, or may hereafter be enacted, for the control and government of public schools in such district, city or incorporated town.

3. He shall remove from office any township trustee, when the interest of the public education demands such removal; he shall fill all vacancies occasioned by removal from office or otherwise.

4. He shall examine into the condition of all school funds of his county, including the sixteenth section fund and sixteenth section lands unsold in his county, and he is required and authorized to bring suit against trespassers upon the sixteenth section, in the name of the State of Alabama, for the use of the township to which they belong, and also to bring suits to recover such lands, for the use of the township, when they are in possession of other claimants.

5. He must have an office at the county site of his county, and must, on the first Saturday of each month, from the beginning of the scholastic year until the close of the public school for that year, be present to transact business with the officers and teachers of public schools.

6. As soon as he receives the annual apportionment of the educational fund to his county, he shall forthwith notify the trustees of each township of the amount apportioned for each race to the township.

§ 15 (909). *Duties as to school money of his county.*—The county superintendent of education shall receive and keep exclusively for the use of public schools, all money belonging to the educational funds of his county, and shall give the tax collector receipts in triplicate for such amounts as may be paid to him by the tax collector, and he shall immediately certify to the superintendent of education the amounts paid by the tax collector, and the date of payment, specifying amount received as poll tax from each race, and all other tax.\*

§ 16 (910). *Settlement with tax collector; certified statement to State superintendent.*—The county superintendent of education shall make a final settlement with the tax collector of his county on or before the first day of May of each year, and shall forthwith forward to the superintendent of education a certified statement of such settlement, showing how much he has received from the tax collector, specifying the poll tax from the general tax, showing the deficiency, if any exists, between the amount received from the tax collector and the annual apportionment of the educational fund for his county.

\* [Code of 1876.] § 1113. *The tax collector pays at end of each month; receipt.*—The tax collector, at the end of each month, shall pay the county superintendent of education of his county the amount of poll tax collected during the month, taking his receipt for the same, as provided in the preceding section.

§ (1112). \* \* The tax collector shall also forward to the superintendent of education one of the receipts for all moneys paid by him to the county superintendent of education as soon as given.

§ 17 (911). *Must keep an account book; open to inspection.*—The county superintendent of education shall enter in a book kept for that purpose, the exact amount and date of all payments made to him for the educational fund of his county, and the amount of educational fund apportioned to, and the amount distributed in, each township and for each race of his county, to whom paid, and the date and amount of payment, and for what purpose; and such book shall be open for inspection of all persons interested.

§ 18 (912). *Report to superintendent of education; contents; made on blanks furnished by superintendent.*—Each county superintendent shall forward to the superintendent of education an annual report of the public schools of his county for the preceding year, on or before the first day of November, and the report shall set forth the amount of school money received from all sources to the end of the year, and shall specify how much was received from each source; it shall also show how much has been disbursed up to the end of the year, for what purpose, and the names of teachers to whom money has been paid, the amount of their pay by contract with the trustees, the time they taught and the total amount paid to each teacher, specifying also how much was paid for teaching schools for the white race and how much for schools for the colored race, the amount of funds then in hand for each race in each township or other school district in his county, and such report shall set forth the number of pupils, male and female, white and colored enrolled, and the average attendance at each school, and in each alternate year shall set forth the scholastic enumeration of his county as provided by law. All reports herein named shall be made out on blanks furnished by the superintendent of education.

§ 19 (913). *Forfeiture for failing to make report within ten days after prescribed time.*—If any county superintendent shall wilfully fail to make out and forward to the superintendent of education the annual reports herein required, within ten days after the time they should be made, as prescribed in the preceding section of this article, he shall be liable to forfeit his pay and commissions, and to be removed from office by the superintendent of education.

§ 20 (914). *Oath and bond; additional security, or new bond, and failure to give.*—Every county superintendent of education, before entering on the duties of his office, must take the oath prescribed by the constitution of this State, and enter into bond, with good and sufficient sureties, the amount of the bond fixed by the superintendent of education, but in no case to be less than double of the amount of money that may come into his hands at any time; and the bond must be approved by the judge of probate of the county and filed and

recorded, together with the oath, in the office of the judge of probate, and a certified copy of the bond shall also be filed in the office of the superintendent of education for his approval. The superintendent of education shall require additional security upon the bond of any county superintendent of education, or a new bond, and a different amount, whenever he shall find it necessary for the protection of the educational fund of the county; and no county superintendent of education, after receiving such notice to give additional security or a new bond, shall continue in the discharge of the duties of his office, until such additional security or new bond is given.

§ 21 (915). *County superintendent must pay out money promptly to teacher; summary judgment on failure; appeal.*—The county superintendent of education must, promptly, pay over to the teachers the money in his hands, according to the provisions of law, and, failing to do so, judgment may be recovered against him and his sureties, or any of them, by motion in any court of competent jurisdiction of the county of such superintendent, on three days notice thereof, for the amount of such moneys, with legal interest from the time of the demand, and ten per centum damages on the aggregate amount, and costs, the motion to be prosecuted in the name of the teacher or legal assignee of the claim; but from all cases tried before a justice of the peace, or notary public, either party shall have the right to appeal, as provided by law in other cases of trial before such officers.

§ 22 (916). *Terms of office of present and succeeding county superintendents; superintendent of education may remove for cause.*—The terms of office of all county superintendents of education, now in office, shall expire on the thirtieth day of September, 1877, and the terms of their successors shall begin on the first day of October, 1877, and their appointment shall be for two years and until their successors are appointed and qualified; but the superintendent of education may, at any time, for good cause shown, remove from office any county superintendent of education.

§ 23 (917). *Vacancy filled by superintendent of education; term of appointee; must qualify and give bond.*—All vacancies in the office of county superintendent shall be filled by appointment of the superintendent of education; but any appointment to fill a vacancy before the expiration of the regular term, shall only be for the unexpired part of such regular term, and all appointees to the office, whether for the whole year or only a part of the regular term, shall qualify and give bond as hereinabove prescribed.

§ 24 (918). *Compensation of county superintendents; when taken or used.*—The county superintendents of education shall

receive for their services seventy-five dollars and one per cent. upon the amount of all the educational fund legally disbursed by them; but such salary and per centum must not be taken or used by them until after the disbursements have been made and the credits allowed by the superintendent of education.

#### ARTICLE IV.

##### TOWNSHIP TRUSTEES; ELECTION, DUTIES, &c.

§ 25 (948). *Election of township trustees; report to State and county superintendents; vacancies; how many may act.*—There shall be elected in each township, on the first Saturday in October, 1877, and every four years thereafter, by the qualified voters, three trustees of the public schools of such township.\* The election shall be held by order of the judge of probate, who shall appoint three managers of election, and require the sheriff to notify them of the time and place of election, in the usual manner as now required by law in other elections. The managers shall report the result to the judge, who thereupon shall announce the names of the persons elected, and report the same to the State superintendent of education, and also the superintendent of the county. If either, or all the persons so chosen, shall fail to accept, or any vacancy should occur in such offices, the county superintendent shall supply the vacancy by an appointment, to hold until the next regular election. Any two of the trustees shall form a quorum to do business, and if there is but one in office, he shall have full power to act.

§ 26 (949). *Supervise and establish schools.*—The trustees shall have immediate supervision of the public schools in their township, and shall have power to establish one or more schools of either race in such township as the public necessity requires. † ‡

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\* [Code of 1876.] § 919. \* \* \* \* and none but a freeholder or householder, resident in the township, is eligible.

† [Code of 1876.] § 1161. *Location of school house, when but one school in township.*—When but one school is established in a township, it shall be so located as to accommodate the largest number of pupils, it being the purpose of this section to encourage the building of a permanent school house as near the center of the township as possible, whenever it can be done without material injury or inconvenience to the children within the educational age in such township; but the trustees may change the location from year to year in order to provide for those who were not in reach of the school in previous years.

‡ [Code of 1876.] § 1155. *Location of schools.*—In the location of public schools, the board of trustees must have reference to the population and neighborhood, paying due regard to any school house already built or site procured, as well as to all other circumstances proper to be considered, so as to promote the best interests of free public education. \* \* \* \* \*

§ 27 (950). *Oath of office ; trustees may administer to each other ; where filed.*—Each trustee of the public schools must, within ten days after his election or appointment, and before entering on his duties, take and subscribe the oath prescribed by law, which oath the members may administer to each other, and which oath must be filed in the office of the county superintendent of education.

§ 28 (951). *Bond required when lands about to be sold or leased ; approval, and filing.*—Whenever the trustees are about to sell or lease school lands, they must give bond, with security, payable to the State, in a sum to be determined by the county superintendent of education, equal to the value of the school lands, or the amount of school funds, of their township, conditioned to discharge their duty faithfully, so long as they may continue in office or continue to discharge any of such duties, which bond must be approved by the county superintendent of education and filed in his office.

§ 29 (952). *Contracts with and payment of teachers.*—The trustees shall contract with teachers when they are satisfied of their competency and good moral character, to teach in any of the public schools of their township, to pay them a *pro rata* share of the school fund apportioned to the township, according to the number of days reported in the teacher's annual report of the actual attendance of each pupil, at the expiration of the scholastic year.

§ 30 (953). *Visits of trustees to schools.*—One or more of the trustees shall visit the schools in their township at least once during each scholastic year.

§ 31 (954). *Enumeration of children ; report to county superintendent.*—The board of trustees of each township must, during the month of August, 1878, and every two years thereafter, make an enumeration of all the children, white and colored, male and female, between the ages of seven and twenty-one years, in their respective townships, and make a report in duplicate of said enumeration to the county superintendent of education by the fifteenth of September following.

§ 32 (955). *Report to county superintendent of amount of income from sale or lease of land.*—Whenever the sixteenth section of any township has been leased or sold, and the proceeds of such lease or sale are still in the hands of the trustees of such township, they must report to the county superintendent of education of their county the annual income to the township from such lease or sale.

§ 33 (956). *Removal of teachers ; pro rata payment.*—The trustees may, for any cause sufficient in their judgment, annul the contract and remove the teacher; but they shall allow him a *pro rata* share of the school fund at the time of the annual payment to the several teachers of the township.

§ 34 (957). *Register of daily attendance to be kept by teachers and submitted to trustees.*—The trustees shall require the teachers of public schools to keep a register of the daily attendance of the pupils in schools taught by them, and to submit such register to the board of trustees for their inspection.

§ 35 (958). *Clerk of board elected at annual session; presides and keeps record.*—The board of township trustees, at their annual session, shall organize by appointing one of their number clerk of the board, who shall preside at the official meetings of the board of trustees, and record their proceedings in a book kept for the purpose.\*

§ 36 (959). *Attendance of children in another township.*—If any child or children, within the educational age, of a township shall attend any public school in any other township, the teachers of such child or children shall be entitled to a *pro rata* share of the school fund of the township in which they live, if the teachers present in due time, to the trustees of the township in which such child or children live, a certificate, approved by the clerk of the board of trustees of the township in which the school or schools were taught, that such child or children, designating them by name, were in actual attendance in such school or schools during the time specified.

§ 37 (960). *Ascertainment of amount due teacher; warrant for amount; reasons for refusal by trustees to approve report of teacher sent to county superintendent.*—When the trustees have received the annual reports of the teachers of the children of their township, they shall determine how much is due each scholar for actual attendance in the public schools, and shall require the clerk of the board to draw a warrant in favor of each teacher upon the county superintendent of education for the amount due him on his annual report; but in no case shall the amount paid to the teacher for any one scholar exceed the tuition of such scholar by contract with the patrons,† and if the trustees refuse to approve any report of a teacher, and to grant him a warrant, the clerk of the board of trustees shall immediately forward a written statement of the reasons for such refusal to the county superintendent of education.

§ 38 (361). *Exemption of trustees from road and jury duties; evidence of continuance in office.*—The township trustees shall

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\* [Code of 1876.] § 931. *Time of regular meeting; quorum.*—The township trustees of each township or school district, except as otherwise provided, shall hold an annual session on the second Monday in January of each year, and shall continue in session from day to day until all business is disposed of, but they may adjourn to any specified day not beyond twenty days from the regular day of meeting; and two of the trustees shall constitute a quorum to transact business, but one may adjourn the meeting from day to day.

† This seems to refer to contracts between teachers and patrons—(the parents and guardians of pupils)—such as were authorized by the law in force prior to October 1, 1877.—See Code of 1876, § 1116.

be exempt from jury duty and road duty so long as they continue in their offices and perform the duties thereof; and the certificate of the county superintendent of education shall be evidence thereof.

## ARTICLE V.

### TEACHERS OF PUBLIC SCHOOLS.

§ 39 (1174). *Certificate of qualification.*—Every teacher of a public school, when required by the trustees of a township, shall obtain a certificate of qualification from such authority as may be designated by the trustees, before entering into contract to teach a public school. ‡

§ 40 (1175). *Register kept by teacher; inspection by trustees; certified report of teacher.*—Every teacher of a public school shall keep a register of the actual daily attendance of the pupils in his school, and shall submit such register to the trustees for their inspection, and shall make a certified report of the number of scholars, designating them by name, stating the number of days each scholar was in attendance during his school, on or before the expiration of the scholastic year. ||

## ARTICLE VI.

### DISTRICTS, PUPILS, SCHOLASTIC PERIODS, CONTRACTS, SCHOOLS, &c.

§ 41 (1154). *What shall constitute a school district; supervision of board of trustees.*—Every township and fraction of a township which is divided by a State or county line, or any other insuperable barrier, such as rivers, creeks, or mountains, and every incorporated city or town having three thousand inhabitants, shall constitute separate school districts, and each shall be under a board of trustees, as to all matters connected with public schools. \*

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‡ [Code of 1876.] § 1126. *Schools not established by trustees excluded.*—No school shall receive the benefit of this chapter, except as herein provided, unless such school shall be instructed by a teacher or teachers duly examined, approved and employed by competent and lawful authority, as herein provided.

|| [Code of 1876.] § 1172. *What is required of teacher.*—Every teacher of a public school is required—

\* \* \* \* \*

2. To maintain good order in the school and on the play ground, to inculcate good morals and faithfully impart instructions in the several branches taught.

3. To see that the school room, fixtures, apparatus and appurtenances are not defaced or injured.

4. To suspend pupils for grossly immoral conduct, or persistent violation of the rules and regulations of the school, giving immediate notice to parents or guardians.

5. To enforce the rules, laws and regulations relating to public schools, and to certify to these facts in his reports.

§ 42 (1179). *Age of pupil; right of admission and into what schools.*—Every child between the ages of seven and twenty-one years shall be entitled to admission into, and instruction in, any public school of its own race or color in the township in which he or she resides, or to any public school of its own race or color in the State of Alabama.†

§ 43 (1165). *Scholastic year, month and day.*—The scholastic year shall begin on the first day of October of each year, and end on the thirteenth‡ day of September of the following year. Twenty days shall constitute a school month. A school day shall comprise not less than six hours.

§ 44 (1166). *Duration of session and number of pupils required; when school children may attend in another township, and pro rata payment to teacher; exception as to sixteenth section revenue.*—The township trustees shall not contract with any teacher to teach a public school for a less term than three months, nor less than ten pupils, within the educational age. In townships in which there are not ten children within the school age, then such children may attend schools established in other townships, and the teacher shall be entitled to receive the *pro rata* distribution of the school fund apportioned to the township in which no schools are organized. The sixteenth section fund of any township may be applied to the establishment of schools in a township of less than ten scholars. ||

§ 45 (1167). *Trustees can not draw warrant on report of less than an average daily attendance of ten pupils.*—The trustees shall not draw a warrant upon the county superintendent in favor of any teacher whose annual report shows a less average daily attendance than ten pupils.

§ 46 (1168). *Contract with teachers to be in duplicate; one for teacher, the other for county superintendent.*—The trustees shall make all contracts with teachers in duplicate and in writing,

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\* [Code of 1876.] § 1153. *Portions of township five, ranges twenty-three and twenty-four, Dale county, united and made a district.*—That portion of township five, range twenty-three, situated east of Claybank creek, is annexed to township five, range twenty-four, constituting, with township five, range twenty-four, a separate school district in the county of Dale.

† [Code of 1876.] § 1178. *Examination and certificates.*—Public examinations must be held in the public schools at least once in every year, and when the trustees are satisfied that any pupil has become thoroughly educated in all the branches of free instruction in such school, they shall give him an honorable certificate to that effect.

‡ The word thirtieth, evidently should have been used instead of “thirteenth,” but the latter occurs in the printed act and is retained in the Code of 1876.

|| [Code of 1876.] § 1157. *Separate schools for races.*—In no case shall it be lawful to unite in one school both colored and white children, unless it be by the unanimous consent of the parents and guardians of such children; but said trustees shall in all other cases provide separate schools for both white and colored children.

one to be kept by the teacher, the other to be forwarded to the county superintendent.

## CHAPTER 4.

### ARTICLE I.

#### APPORTIONMENT AND DISBURSEMENT OF PUBLIC SCHOOL REVENUE.

§ 47 (1129). *Necessary amounts for contingent expenses, and for normal schools, to be set apart, and residue of revenue to be apportioned.*—As soon as the auditor furnishes to the superintendent of education, in each year, the certificate showing the amount which is to the credit of the educational fund for that year, it shall be the duty of the superintendent of education to set apart, out of the general fund, a sufficient amount to pay such expenses of the department of education as by law shall be payable out of such fund, the amount necessary to cover the expenses of normal schools, and he shall then apportion all the balance of such fund, as nearly as practicable, among the several townships and school districts in the State, in the manner hereinafter provided.

§ 48 (1130). *Apportionment and setting apart certified to auditor; no warrant for any purpose in excess of amount set apart or apportioned.*—As soon as the superintendent of education has set apart the amount and made the apportionment of the fund as provided for in the preceding section, he shall certify to the auditor the amounts set apart for each particular purpose or appropriation, and the total amount of the apportionment to the several school districts in each county for each race, and the auditor shall see that no warrants are drawn against the educational fund, for any purpose, for any amount in excess of the amounts so set apart and apportioned, and so certified to him.\*

§ 49 (1131). *How apportionment made.*—In making the apportionment of school money to the several school districts, the superintendent of education shall first set apart to each township or other school district the amount due from the State to each district as interest on its sixteenth section fund, or other trust fund held by the State; and all townships or

\* [Code of 1876.] § 1118. *Duty of auditor and State treasurer as to unapportioned school revenue.*—The auditor shall certify to the treasurer the amount of the school revenue, exclusive of poll tax, unapportioned by the superintendent of education, and the treasurer shall set apart the amount out of any moneys received from taxes for the current year, and he shall keep the same separate and apart from all other revenues, and shall not pay out any of such moneys except upon warrants for school purposes.

school districts which have an income from trust funds in the hands of the State, or from lease or sale of their sixteenth section lands, shall not receive any thing out of the balance of the educational fund to be apportioned until all other townships or school districts having no trust fund shall have received from the general fund such sum as will give them an equal *per capita* apportionment with the townships and districts having such trusts and income. †

§ 50 (1132). *Basis of apportionment; apportionment between the races also to be made.*—The superintendent of education shall apportion the educational fund to the respective townships or school districts, subject to the provisions of the preceding section, according to the latest official returns of the enumeration of school population of the townships or other districts which have been made to his office; and he shall also apportion the fund for each township between the races therein; but whenever the trustees of any township or district have failed to make and return the census enumeration of their township or district, as required by law, the superintendent of education shall make the apportionment to such township or district according to the best information which he can obtain as to the school population of such township or district; but in no event shall he, in case of such failure, estimate the school population of any such district or township at more than the number shown by the last official report thereof to his office.

§ 51 (1133). *Superintendent must record apportionment and basis thereof, and furnish each county superintendent certified copy of so much as relates to his districts; what extent only contracts for schools valid.*—As soon as the superintendent of education shall have made the apportionment of school money as hereinabove provided, he shall record the same in his office in books kept for that purpose, showing the amount which he has apportioned to each school district in the State, and specifying from what source or sources the same was derived, the amount to each race in the township, and the number of children of each race in the district upon which the apportionment was based; and he shall then furnish to each county superintendent of education a certified copy from such books, showing the dividends of educational fund to each township or district under the supervision of such county superintendent of education, and the amount so divided and certified shall be the total amount which each of such school districts shall be entitled to receive from the State, except poll tax, during

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† § 1117. *Apportionment of money raised by county school tax.*—The money raised by county school tax shall be apportioned by the county superintendent among the public schools in the county, upon the basis provided in this Code for the apportionment of the State school moneys. \* \* \* \*

the then current scholastic year; and no contract to pay for any school or schools, for any district, more than the amount thus appropriated to it, together with such poll tax as it may receive, and such funds as may be in hand from previous years, shall be valid against the State or township.

§ 52 (1134). *Each county receives its own poll tax, and it shall be its distributive share of such tax.*—Each county in this State shall receive as school money all the poll tax collected in such county, and the school money thus received shall be its full distributive share of the aggregate poll tax collected in the State.

§ 53 (1135). *Tax assessor must note township and range and the color of each poll tax payer.*—The tax assessors, while making their assessments in each year, shall note on the assessment list the township and range in which each person liable for poll tax resides, and he shall note the number of each race in the township liable to poll tax.

§ 54 (1136). *Each township or district entitled to its poll tax; each race to poll tax paid by it; county superintendent's report as to poll tax.*—Each township or other school district shall be entitled to receive for the support of public schools therein, all the poll tax raised in and for such district, and the county superintendent of education of each county shall see that the amount of poll tax paid by white persons shall be applied exclusively to the maintenance of schools for white pupils, and all paid by colored persons exclusively for schools for colored pupils; and in his annual reports the county superintendent of education must show how much poll tax he has received since the last report for each race in each district of his county.\*

§ 55 (1137). *Certificate of superintendent to auditor of amount due each county; auditor's warrant to county superintendent on tax collector.*—The superintendent of education shall, by the tenth day of October in each and every year, or as soon thereafter as practicable, apportion to every county in this State the amount of school money such county will be entitled to receive for that scholastic year from all sources, except from poll tax and the special tax, if any levied for school purposes in any county, and shall certify the same to the State auditor, who shall draw his warrant on the tax collector of each county for the amount thus certified, to be paid to the county superintendent of education of each county, and its payment shall be accounted as the payment of so much school money, and shall stand in lieu thereof.

§ 56 (1138). *Payment of auditor's warrant on tax collector; county superintendent's receipt taken as cash.*—The tax collector shall pay the auditor's warrant provided for in the preceding

\* See note to section 49.

section out of any State tax that may come into his possession, and take up the warrant, together with a receipt from his county superintendent of education, endorsed and approved by the probate judge, for the amount paid, and this receipt shall be received from the tax collector by the auditor as cash in the settlement of his accounts, but no preference shall be given by the several tax collectors in the payment of the auditor's warrant, drawn under section 1131 for school money, but shall make payments into the State treasury, and on such warrants in proportion of the latter to the whole amount of taxes which will probably be collected in his county for the then current fiscal year; but the amounts of school money apportioned to the several counties, respectively, shall be first paid to the superintendent of education of the county for educational purposes, in such county respectively, out of the collections of State revenue in the several counties, so that the portion belonging to each county for school purposes shall always be retained in the counties.

§ 57 (1139). *Disposition of school money during contest as to office of county superintendent and after contest ended.*—Whenever a contest as to the office of county superintendent of education is pending, the tax collector of such county shall pay over to the superintendent of education all school money which is in his hands, or which may come into his hands during the pendency of such contest, and it shall be the duty of the superintendent of education to receive the school money of such county and deposit the same in the State treasury as a special deposit for the county, and such money shall be paid out on the warrant of the superintendent of education for the support of the public schools of such county, and to such persons as would be entitled to receive the same from the county superintendent of education; but on the final determination of the contest, it shall be the duty of the superintendent of education to pay over any balance not disbursed by him to the person in whose favor the contest is decided.

§ 58 (1140). *Unlawful to use school money, or permit its use, except for public school purposes.*—It shall be unlawful for any person into whose hands or under whose control any of the public school money may come, to use or to permit the use of the same, or any part thereof, except for purposes of the public schools, and in accordance with the laws regulating the public schools and providing for the disbursement of the public school money.

§ 58,a (4382). And any person violating the provisions of this section shall be deemed guilty of embezzlement, and, on conviction, be punished as if he had stolen the money so unlawfully used or converted.

§ 59 (4381). *Embezzlement by county superintendent of education.*—Any county superintendent of education to whom any money or property has been delivered as county superintendent of education, who embezzles, or fraudulently converts to his own use, such money or property, or any part thereof, must be punished, on conviction, as if he had stolen it, and shall forfeit his office.

§ 60 (1141). *Deficiency after first day of May, paid by warrant on treasurer.*—In any county where the amount of funds collected and paid over by the tax collector by the first day of May in each year, exclusive of the poll tax, does not amount to the apportionment of the educational fund for the county, it shall be the duty of the superintendent of education to certify to the auditor the amount to which said county is entitled, after deducting the amount paid by the tax collector to the county superintendent of education, and the auditor shall draw his warrant on the State treasurer in favor of such county superintendent for the sum certified to be due.

§ 61 (1142). *Local school money ; appropriation and expenditure.*—All local school funds raised for the support of public schools by taxation, or otherwise, shall be apportioned and expended in the district or districts where such funds have been raised, under such rules and regulations as the board of trustees of said district, or other local board provided by law, may prescribe ; but this section shall not be construed to repeal any provision for the apportionment and disbursement of the moneys mentioned in this article, provided for in special or local laws ; and all funds contributed by private parties or otherwise to said district, shall be applied as indicated in the grant from such contributors.\*

§ 62 (1143). *Apportionment of income of trust fund when township divided.*—Whenever a township, which has a trust fund income, is divided by a State or county line, or includes a city which is a separate school district, such trust fund income shall be divided between or apportioned to each school district, according to the school population of each.

§ 63 (1144). *Apportionment of unexpended school money prior to first of October, 1875 ; report to superintendent of education.*

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\* [Code of 1876.] § 1116. *Fifty per cent. of revenue applicable to building, &c.* Not more than fifty per cent. of the school revenue raised by county tax, and paid into the county treasury, shall be used for any other purpose than the payment of qualified teachers ; and the residue of the moneys distributed to the several townships from the county school revenue may be appropriated to the purchase of a township school library, to build a township school house, or such other contingent expenses of the schools as the county superintendent shall determine.

§ 1125. *State educational revenue applicable to tuition only.*—The school moneys distributed to the various counties of this State, from the State school revenue, shall not, either directly or indirectly, be paid for the erection of school houses, the use of school rooms, furniture, or any other contingent expense of schools.

The county superintendents of education shall apportion to the several school districts in their counties all unexpended school funds now in their hands, or which they may hereafter receive, and which funds have accrued to their counties prior to the first of October, 1875, when it is not known to what particular townships and races the same belongs; and they shall make such apportionment in the same manner as the State superintendent is required to apportion the general school fund, and they shall make report of such apportionment to the superintendent of education as soon thereafter as practicable; but nothing contained in this section shall interfere with the claims of teachers who taught public schools prior to the year 1874.\*

§ 64 (1145). *Apportionment, when unexpended for two years.* The county superintendent of education shall, in like manner, apportion among the school districts under his supervision, all funds which they have received for any particular school district and race, and which has remained unused by such township and race for two years.

§ 65 (1146). *Money once apportioned shall not be used otherwise until reapportioned.*—The funds which have accrued to and been apportioned to any township and race, shall not be

\* The following act of the Board of Education, approved December 14, 1874, is the only provision for the payment of "claims of teachers who taught public schools prior to the year 1874":

Sec. 1. Be it enacted by the Board of Education of the State of Alabama, That all persons who have taught free public schools prior to October 1, 1874, upon presenting their claims to the county superintendent of education of the county in which said schools were taught, and furnishing the proof required by an act of the Board of Education, entitled "An act to provide for filing and adjusting all claims against the educational department," approved December 5, 1874, shall be paid out of any unexpended funds belonging to the township, accruing prior to October 1, 1874, in which said schools were taught, and from the fund apportioned to the race taught by such teacher; Provided, That no claim shall be paid until all claims are presented and passed upon; And provided further, That such claims are presented by the first day of October, 1875; and if there is not a sufficient fund to pay the full amounts of such claims, the fund shall be divided pro rata in proportion to the amount proved to be due.

The following act of the General Assembly, approved February 9, 1877, relates to claims which accrue between October 1, 1874, and February 9, 1877:

Sec. 1. Be it enacted by the General Assembly of Alabama, That in all cases in which trustees of the public schools have made contracts with persons to teach public schools in their respective townships since the first day of October, 1874, and before the notice of the amount which was apportioned to their respective townships was received by said trustees, and where the said persons taught said schools pursuant to said contracts, such persons shall be entitled to receive from the county superintendents of the counties in which they taught, the amounts which accrued to them under their said contracts, to be paid out of any funds in the hands of said county superintendents which were apportioned to the respective townships, and to the race for which they taught, and in the year for which they taught; but no payments shall be made on any such claims, except out of money which may now be in the hands of the county superintendents, and which was apportioned to the respective townships and for the race for which the person taught in the year in which the service was rendered.

used for the benefit of any other township and race until after the same shall have reverted to the general fund and been reapportioned as provided in the preceding section.

§ 66 (1147). *New district, composed of parts of two or more districts, entitled to proportion of trust fund income.*—Whenever any separate school district shall be created which embraces parts of two or more townships, such school district shall receive its proportionate share of the trust fund income of each of such townships according to school population.

§ 67 (1148). *Amount set apart annually for contingent fund; how drawn; account kept and itemized report made to governor.* The superintendent of education shall annually set apart, out of the general educational fund, the sum of one thousand dollars as a contingent fund for his department, and, whenever it is necessary to draw on such fund, he shall certify the amount necessary, and for what purpose, to the State auditor, who shall draw his warrant on the State treasurer for the amount. The superintendent of education shall keep an accurate account of all sums which he may certify to be paid out of the educational contingent fund, and shall furnish an itemized statement thereof to the governor, each year, with his annual report.

§ 68 (1149). *Unexpended contingent fund carried forward and made part of fund for next year.*—At the close of each scholastic year, any part of the appropriation for educational contingent fund which may not be then expended, shall be carried forward by the auditor and by the superintendent of education and placed to the credit of, and become a part of the one thousand dollar appropriation for the educational fund of the next succeeding year.\*

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## CHAPTER 5.

### ARTICLE I.

#### SCHOOL LANDS; INCORPORATION OF TOWNSHIPS.

§ 69 (962). *School lands; what, and in whom vested.*—School lands, within the meaning of this Code, are sections numbered sixteen, in every township, granted by the United States for the use of schools in the township, and such other lands as may have been granted any township for the use of schools; and all school lands are vested in the state, in trust to execute the objects of the grant.

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\* None of the foregoing sections—from 1 to 68 inclusive—except sections 58 and 59, apply to cities and incorporated towns which are provided for by local school laws.

§ 70 (963). *Townships incorporated.*—The inhabitants of each township in the state are incorporated, by the name of “Township —, in range —,” according to the number of the surveys of the United States.

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## ARTICLE II.

### LEASE OF SCHOOL LANDS.

§ 71 (967). *Timber lots reserved.*—The trustees, after the surveys and plats provided for by article 3 of this chapter, may select such lots as they think proper, to reserve from cultivation for the benefit of the timber thereon, and must mark the same “Reserved” on the plat thereof.

§ 72 (968). *Balance leased; terms, &c.*—The trustees may lease, for not exceeding five years, the lots so laid out and not reserved; may stipulate for such improvements as they deem expedient, and require, if they think proper, security for rents and improvements; the rent is to be paid annually, but in case of improvements, they may stipulate for the rents to commence after the commencement of the lease.

§ 73 (969). *Notes payable to township.*—All notes, bonds and contracts, for the lease of school lands, are to be made payable to the township by its corporate name.

§ 73a (970). *Lease made by auction; notice.*—All school lands must be leased at some place in the township, at public auction; and at least six weeks previous notice must be given, by advertisement, designating the time and place, at three public places in the township; and such other notice as the trustees deem expedient.

§ 74 (971). *Duties of lessee.*—The lessee is bound to treat the land, houses and improvements in a careful and husband-like manner; to commit no waste; and must comply with such further restrictions as the trustees deem expedient to insert in the lease; and if such lessee, or any person claiming under him, commit waste, fail to pay the rent, or to comply with any other stipulation, the trustees have the right to declare the lease forfeited.

§ 75 (972). *Timber lots; how used.*—The lots reserved for timber are for the common benefit of the lessees of the other lots; but no timber must be cut down, injured, or destroyed, as long as there is sufficient on the other lots, which the trustees are to determine; and the lessees must in no case cut down, injure, or destroy such timber without permission from the trustees, which may be given on such terms as they think proper, having a due regard to the interest of their townships.

§ 76 (973). *Penalties for taking timber, or trespassing.*—Any person who, without authority, cuts down, injures, or destroys any tree on school lands, shall forfeit and pay for every such tree ten dollars, to be recovered before any court having jurisdiction, in the corporate name of the township.

§ 77 (974). *Fines, turned over to school fund.*—All fines and forfeitures under the preceding section are to be paid into the state treasury, and added to the principal of the school fund of the township.

§ 78 (4416). *Trespass on school land.*—Every trespasser on school lands is guilty of a misdemeanor, and, on conviction, must be fined not less than three times the amount of the injury occasioned by such trespass; and the fine shall be added to the principal of the school fund of the township.

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### ARTICLE III.

#### SALE OF SCHOOL LANDS.

§ 79 (975). *Election as to sale of school lands.*—The trustees of the free public schools of any township may, on giving twenty days notice by advertisement at three of the most public places therein, hold an election to ascertain the sense of the township respecting the sale of school lands belonging thereto, and may appoint the place where such election is to be held, and three inspectors to manage the same.

§ 80 (976). *Inspectors; oath of.*—The inspectors, before holding such election, must take an oath to conduct the same fairly, which may be administered by one to the other, and they may appoint clerks.

§ 81 (977). *Absence of inspectors.*—If any inspectors are absent, those present may supply their places, and if none attend, any three freeholders or householders of the township may act.

§ 82 (978). *Polls; opening and closing.*—The polls are to be opened at eleven in the morning, and closed at five in the afternoon.

§ 83 (979). *Manner of voting.*—The voters must write upon their tickets "sale" or "no sale," deposit them in the ballot-box, and the inspectors, after ascertaining the result, must certify the same to the trustees.

§ 84 (980). *Survey made and minimum price fixed, if majority for sale.*—If on such election there is a majority of the white male inhabitants of the township, over twenty-one years of age, voting in such election, in favor of a sale, the trustees are to have the lands surveyed in lots, so as to com-

mand the highest price ; have a plat of such survey made ; and being sworn fairly to value such lots, must fix a minimum price upon each.

§ 85 (981). *Plat for inspection.*—Such plat, with the minimum price marked upon each lot, is to be kept by one of the trustees, free to the inspection of all persons desiring to examine the same.

§ 86 (982). *Notice of sale.*—As soon as the lands are surveyed, the trustees must give thirty days notice of the time and place of sale by advertisement, at three public places in the township, and in such other mode as they think proper.

§ 87 (983). *Sale at auction.*—On the day appointed for the sale, between the hours of eleven in the morning and two in the afternoon, each lot must be offered separately and sold at public auction to the highest bidder at or above the minimum price. If such minimum price is fifty dollars, or under, the sale must be for cash ; if the minimum price is over fifty dollars but not more than one hundred and fifty dollars, the sale must be on a credit of one year, unless the amount bid for the lands should exceed one hundred and fifty dollars, in which event the sale must be on a credit of one and two years, in equal annual installments ; if the minimum price, or the amount bid for the lands, is one hundred and fifty dollars or over, but less than three hundred dollars, the sale must be on a credit of one and two years, in equal annual installments ; if the minimum price, or the amount bid for the land is over three hundred dollars, but less than five hundred dollars, the sale must be on a credit of one, two and three years, in equal annual installments ; and if the minimum price, or the amount bid for the lands, is five hundred dollars or more, the sale must be on a credit of one, two, three and four years, in equal annual installments ; when the sale is on credit the purchaser must give his notes, with two or more sureties, approved by the trustees, payable to the State of Alabama, for the use of township —, range —, designating it by numbers, and specifying, by the legal sub-divisions, the particular portion or portions of the section for which the notes are given. All notes for purchase of school lands, sold under provision of this article, must bear interest at eight per cent. per annum from date.

§ 88 (984). *Provisions directory.*—The provisions of this article in relation to the sale of school lands, must be construed as directory only.

§ 89 (985) *Report of sale to superintendent of education.*—The trustees making such sale must make a return thereof within twenty days thereafter to the superintendent of education, which return must specify the date of the sale, the names of the purchasers, and the quantity and particular

description of the land sold to each, and the price paid or to be paid by each purchaser, and the amount of the purchase money retained to defray the expenses of the survey and sale of the same. The trustees must, at the same time, pay over to the superintendent of education all the money which may have been received by them as purchase money for such lands, after deducting such amount as they may be allowed by law to retain to defray the expenses of the survey and sale; and must also, at the same time, turn over to the superintendent of education all notes which may have been taken by them for such lands, and such superintendent must give a receipt for such money, and such notes, and file the returns and notes in his office, and make a proper record of the notes.

§ 90 (936). *Re-sale.*—If any purchaser fail to make the payment, or give his notes with approved securities, as required by section 983 (604), the land so bid off by such person must be immediately resold if practicable, but if it is not practicable to make the resale at once, it must be advertised and resold at a future day, as if no sale had been made; and the first purchaser shall be responsible for the difference between his bid and the amount for which the lot is subsequently sold, if such amount is less than the bid of such first purchaser.

§ 91 (987). *Certificate of purchase.*—The trustees, on the execution of the notes, must give to the purchaser a certificate of purchase, showing the quantity of land in acres, describing the lots purchased, and specifying the amount of the purchase money.

§ 92 (988). *Effect of certificate.*—Such certificate conveys to the person therein named, his heirs or assigns, a conditional estate in fee, to become absolute on the payment of the purchase money and interest; and which reverts to the state for the uses originally granted, in the following cases:

1. When all the notes have become due, and the makers have left the state or died insolvent.

2. When a recovery on such notes is defeated, by any defense avoiding the contract of sale.

3. When a recovery is had against all the makers, and execution has been returned, “no property,” by the proper officer of the county in which the township lies; or when judgment is had, and execution returned against any one or more of such makers, “no property,” the others having left the state or died insolvent.

§ 93 (989). *Title re-vests*—No proceeding is necessary to re-vest the title in the state on the happening of the events specified in the preceding section, but such lands may be recovered in the name of the state, for the use of the township, against any person in possession of the same, upon proof of the

facts ; and it is the duty of the clerk of the court where the suit was pending, or the judgment recovered, to certify the facts to the superintendent of education, on the happening of the events specified in the second and third sub-divisions of the preceding section ; and failing to do so within a reasonable time, forfeits the sum of one hundred dollars—one-half to the person suing for the same, and the other to the state for the use of the township. When no money is recovered in suits on notes for purchase of school lands, no costs must be taxed against the township for such suits.\* 1

§ 94 (990). *Compensation of trustees, &c.*—For holding the election and making the sale, as in this article provided, the trustees are entitled to two dollars each, which, together with the amount which may be allowed by law to the county surveyor for making the surveys and plats herein provided for, shall be retained by the trustees out of the purchase money for the lands, and purchasers shall in all cases pay enough cash to defray such expenses ; and if the trustees fail to make the payment, or return of the sale to, or deposit of the notes with the superintendent of education, as provided in section 89 (985), each of the trustees so in default shall forfeit one hundred dollars—one-half to the person suing for the same, and the other half to the state for the use of the township ; and on the trial the certificate of the superintendent of education as to such failure is presumptive evidence thereof.

§ 95 (991). *Fines go to school fund.*—The amount received by the state upon recoveries had under the preceding section, is to be added to the principal of the school fund of the township.

§ 96 (992). *Patent.*—A patent issues on the payment of the purchase money, to the purchaser, his heirs, or assigns ; and when the patent is to the heirs, it vests a title in all persons entitled to claim in that capacity, under the provisions of this Code.

§ 97 (993). *Patent issues by secretary of state upon evidence of payment.*—The secretary of state must issue patents upon satisfactory evidence furnished him of full payment of purchase money to any person, agent or officer, legally authorized to receive such payment.

§ 98 (994). *Patent issues by governor.*—The governor is authorized to issue a patent for sixteenth section lands sold by the trustees of any township in this state prior to the first day of February, 1876, to any person applying therefor upon evidence satisfying him that the purchase money has been paid, and that the applicant is entitled to a patent.

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\*See section 103.

(1). See 38 Ala. 600 as to adverse possession and statute of limitations.

commissioners. They shall also elect a county superintendent of education, who shall hold his office for the period of four years, and they may elect or appoint such other officers and agents as they may from time to time deem expedient. The members of the board and the county superintendent shall severally make oath before the judge of probate of Mobile county, that they will faithfully and properly demean themselves in their respective offices to the best of their ability.

§ 111 (1229). *Incorporation of board; general powers.*—The board of school commissioners shall receive, levy, assess and collect all devises, revenues and taxes to which they were by law entitled at the date of the organization of the Board of Education of the State of Alabama, and they shall have full power to continue in force, revise, modify and improve, as to them may seem fit, the public school system existing in the county of Mobile; and to make such by-laws, rules and regulations not inconsistent with the laws of this State and of the United States, for the government of the board and of such schools, as they may deem expedient or necessary. They shall hold regular meetings of the board at such times as they may fix upon, and adjourned or special meetings when necessary. Five members of the board shall constitute a quorum for the transaction of business, but no business involving a change in the system, rules or regulations, or affecting the general interest of the county, shall be transacted except at the regular meeting, after due notice given, or when a full board is in attendance. The board shall be a body corporate, may have a common seal, may sue and be sued, shall have power to purchase or lease such property for school purposes as in their judgment may be necessary for the proper accommodation and comfort of pupils and teachers, and may fix the compensation and bonds of its officers, agents and employes, and change the same at pleasure; but the sum or sums so expended shall not exceed, in any one year, twenty per cent. of the income of the board, exclusive of the amounts derived from the public school revenue. The board shall also have power to sell or exchange any of the property, the Barton Academy buildings only excepted; but when the value of such property shall not exceed five thousand dollars, two-thirds of the members of the board shall vote in favor of the sale, and when the value exceeds five thousand, the sale, to be valid, shall receive the unánimous vote of the board, and be approved by the judge of probate of Mobile county.

§ 112 (1230). *Filling of vacancies; proceedings recorded; semi-annual publications; report to superintendent.*—The board of school commissioners have power to fill any and all vacancies that occur therein, or in the office of superintendent, and the persons that may be elected by the board to fill vacancies

shall hold their offices until the term for which their predecessors were elected shall expire. The board shall cause full minutes of its proceedings to be kept, in well bound books, subject at all times to the inspection of the citizens of Mobile county. It shall cause to be published semi-annually, in one or more newspapers published in the city of Mobile, a full statement of the revenue and disbursements of the preceding six months, the number of schools kept, of teachers employed, and of pupils instructed. It shall transmit annually to the superintendent of education, to be by him laid before the General Assembly, a full statement of its receipts and disbursements during the year, and such further information and statistics of its transactions as the superintendent may require.

§ 113 (1231). *The county superintendent of Mobile county.*—The county superintendent of education shall be *ex-officio* a member and treasurer of the board of school commissioners, and it shall be his duty to be present at every regular meeting of the board, and make full and detailed reports of the condition of the schools and of all matters coming under his supervision as often as the board may require. He shall have, under the direction of the board, general supervision of all the public schools in the county of Mobile, shall collect, receive and disburse the revenues of the board under such rules and regulations therefor as the board may from time to time prescribe, and shall make detailed exhibits of all receipts and expenditures, accompanied by proper vouchers, at such times as the board may require, and, in general, shall perform all duties and carry into effect all orders and resolutions which the board may establish and direct. He shall receive such compensation for his services as the board may ordain, and may at any time be removed from office for dereliction in duty, after due examination had; but not less than two-thirds of the members comprising the board shall vote in favor of such removal. He shall give good and sufficient bond, to be approved by the president of the board and the judge of probate of the county, in such sum as the board may determine; but the penalty of the bond shall not be required to exceed double the amount of money which the superintendent can receive and have in possession at any one time.

## ARTICLE II.

### MONTGOMERY.

§ 114 (1219). *Corporate limits a district.*—The corporate limits of the city of Montgomery shall constitute a school dis-

commissioners. They shall also elect a county superintendent of education, who shall hold his office for the period of four years, and they may elect or appoint such other officers and agents as they may from time to time deem expedient. The members of the board and the county superintendent shall severally make oath before the judge of probate of Mobile county, that they will faithfully and properly demean themselves in their respective offices to the best of their ability.

§ 111 (1229). *Incorporation of board; general powers.*—The board of school commissioners shall receive, levy, assess and collect all devises, revenues and taxes to which they were by law entitled at the date of the organization of the Board of Education of the State of Alabama, and they shall have full power to continue in force, revise, modify and improve, as to them may seem fit, the public school system existing in the county of Mobile, and to make such by-laws, rules and regulations not inconsistent with the laws of this State and of the United States, for the government of the board and of such schools, as they may deem expedient or necessary. They shall hold regular meetings of the board at such times as they may fix upon, and adjourned or special meetings when necessary. Five members of the board shall constitute a quorum for the transaction of business, but no business involving a change in the system, rules or regulations, or affecting the general interest of the county, shall be transacted except at the regular meeting, after due notice given, or when a full board is in attendance. The board shall be a body corporate, may have a common seal, may sue and be sued, shall have power to purchase or lease such property for school purposes as in their judgment may be necessary for the proper accommodation and comfort of pupils and teachers, and may fix the compensation and bonds of its officers, agents and employes, and change the same at pleasure; but the sum or sums so expended shall not exceed, in any one year, twenty per cent. of the income of the board, exclusive of the amounts derived from the public school revenue. The board shall also have power to sell or exchange any of the property, the Barton Academy buildings only excepted; but when the value of such property shall not exceed five thousand dollars, two-thirds of the members of the board shall vote in favor of the sale, and when the value exceeds five thousand, the sale, to be valid, shall receive the unanimous vote of the board, and be approved by the judge of probate of Mobile county.

§ 112 (1230). *Filling of vacancies; proceedings recorded; semi-annual publications; report to superintendent.*—The board of school commissioners have power to fill any and all vacancies that occur therein, or in the office of superintendent, and the persons that may be elected by the board to fill vacancies

shall hold their offices until the term for which their predecessors were elected shall expire. The board shall cause full minutes of its proceedings to be kept, in well bound books, subject at all times to the inspection of the citizens of Mobile county. It shall cause to be published semi-annually, in one or more newspapers published in the city of Mobile, a full statement of the revenue and disbursements of the preceding six months, the number of schools kept, of teachers employed, and of pupils instructed. It shall transmit annually to the superintendent of education, to be by him laid before the General Assembly, a full statement of its receipts and disbursements during the year, and such further information and statistics of its transactions as the superintendent may require.

§ 113 (1231). *The county superintendent of Mobile county.*—The county superintendent of education shall be *ex-officio* a member and treasurer of the board of school commissioners, and it shall be his duty to be present at every regular meeting of the board, and make full and detailed reports of the condition of the schools and of all matters coming under his supervision as often as the board may require. He shall have, under the direction of the board, general supervision of all the public schools in the county of Mobile, shall collect, receive and disburse the revenues of the board under such rules and regulations therefor as the board may from time to time prescribe, and shall make detailed exhibits of all receipts and expenditures, accompanied by proper vouchers, at such times as the board may require, and, in general, shall perform all duties and carry into effect all orders and resolutions which the board may establish and direct. He shall receive such compensation for his services as the board may ordain, and may at any time be removed from office for dereliction in duty, after due examination had; but not less than two-thirds of the members comprising the board shall vote in favor of such removal. He shall give good and sufficient bond, to be approved by the president of the board and the judge of probate of the county, in such sum as the board may determine; but the penalty of the bond shall not be required to exceed double the amount of money which the superintendent can receive and have in possession at any one time.

## ARTICLE II.

### MONTGOMERY.

§ 114 (1219). *Corporate limits a district.*—The corporate limits of the city of Montgomery shall constitute a school dis-

district, separate from the remaining districts and parts of districts of the county of Montgomery.

§ 115 (1220). *City board of education.*—The public schools of the city of Montgomery shall be under the management of a city board of education, consisting of six members, to be elected annually at their first meeting in January, by the city council of Montgomery, one from each ward, who shall act without pay.

§ 116 (1221). *Pro rata share of school fund.*—The city of Montgomery, as such school district, shall receive its proportionate share of the public school revenue, including a *pro rata* share of the sixteenth section fund of each township that lies partly within the corporate limits of the city, to be paid to the city superintendent of education, and to be appropriated exclusively to the maintenance of the public schools of the city.

§ 117 (1222). *Duties, powers and salary of city superintendent of education.*—The city board of education, and the public schools of the city, subject to their management, shall be under the supervision of the city superintendent of education, with the same powers and duties as a county superintendent, and with such salary as the city board of education may determine, to be approved by the State superintendent of education, and to be paid from the city treasury as other city officers are paid.

§ 118 (1223). *Election of city superintendent; supervision of State superintendent.*—The city superintendent of education shall be elected by the city board of education, and both he and the city board of education shall be under the superintendent of education.

§ 119 (1224). *Duties of city superintendent.*—The city superintendent must exercise general supervision of the public schools in the city, must make full and complete reports to the superintendent of education, and must perform such other duties as are required of county superintendents of education under the general school laws.

### ARTICLE III.

#### SELMA.

§ 120 (1213). *Selma, a school district.*—The corporate limits of the city of Selma shall constitute a school district, separate from the other school districts of the county of Dallas.

§ 121 (1214). *City superintendent; how he qualifies; his commission; co-operation in keeping up schools in city.*—There shall be a superintendent of education for the city of Selma, and he shall give bond and qualify as required by law of

county superintendents, and he shall be commissioned as superintendent of public schools in the city of Selma, and he is authorized to co-operate with the board of education of the city of Selma in keeping up schools in the city; and he is also authorized to make with the educational institutions in the city of Selma all such necessary and proper arrangements for the keeping up, managing and conducting the schools in the city, as may be found best for the interests of the citizens thereof.

§ 122 (1215). *Under jurisdiction of superintendent of education; appointee in case of vacancy.*—The superintendent of education for the city of Selma shall be under the jurisdiction and control of the superintendent of education, and in the event of a vacancy occurring at any time, by death, resignation or removal from office, such vacancy shall be filled by appointment by the superintendent of education, and such appointee shall give bond and qualify as other county superintendents.

§ 123 (1216). *Revenues; how drawn and disbursed.*—The city of Selma, as such school district, shall receive its proportional share of the public school funds, including a *pro rata* share of the sixteenth section fund of each township that lies partly within the corporate limits of the city, the revenues to be drawn and disbursed by the city superintendent of education in the same manner as county superintendents of education draw and disburse revenues for their respective counties, and the amount thus drawn by the city superintendent of education shall be used exclusively for the maintenance of public schools in the city.

§ 124 (1217). *Compensation of city superintendent.*—The superintendent of education for the city of Selma shall receive for his services such amount as shall be fixed by the superintendent of education, but in no event shall his compensation exceed the sum of one hundred dollars per annum.

§ 125 (1218). *Enumeration of children.*—The city superintendent shall, during the month of May, 1877, and every two years thereafter, cause to be made an enumeration of all the children, white and colored, male and female, between the ages of seven and twenty-one years, who reside in the corporate limits, and make report thereof to the superintendent of education, by or before the first day of October in each year, of the enumeration, and compensation shall be allowed for such enumeration not to exceed five cents for each person enumerated; and such compensation may be paid out of the funds raised by the city of Selma for school purposes.

## ARTICLE IV.

## HUNTSVILLE.

§ 126 (1190). *Huntsville, a district.*—The corporate limits of the city of Huntsville shall constitute a school district, separate from the remaining school districts of the county of Madison and State of Alabama.

§ 127 (1191). *Pro rata share of school revenues to be received and disbursed by city superintendent.*—The city of Huntsville, as such school district, shall receive its proportional share of the public school revenues, including a *pro rata* share of the sixteenth section funds of each township that lies partly within the corporate limits of said city, and shall also receive all the tax collected as poll tax within the corporate limits of the city; the revenues to be drawn and disbursed by the city superintendent of education in the same manner as county superintendents of education draw and disburse revenues for their respective counties, and the amount thus drawn by the city superintendent of education shall be used exclusively for the maintenance of public schools in the city.

§ 128 (1192). *City superintendent; bond, powers and duties.* There shall be a superintendent of education for the city of Huntsville, and as such superintendent he shall give bond and qualify as required by law of county superintendents, and shall be commissioned as superintendent of public schools in the city of Huntsville; and such superintendent is authorized to co-operate with the board of mayor and aldermen of the city of Huntsville, in keeping up schools in the city of Huntsville, and he is also fully authorized to make contracts with teachers for such schools, and to make with the educational institutions in the city of Huntsville all such necessary and proper arrangements for the keeping up, managing and conducting the schools in the city as may be found best for the interests of its citizens.

§ 130 (1193). *He is under control of state superintendent; removal; appointee, in case of vacancy.*—The superintendent of education for the city of Huntsville shall be under the jurisdiction and control of the superintendent of education, and in the event of a vacancy occurring, by reason of removal from office of the city superintendent of education by the superintendent of education, or from any cause, the superintendent of education shall appoint his successor; and such appointee shall give bond and qualify as other county superintendents.

§ 131 (1194). *Compensation of superintendent for city.*—The superintendent of education for the city of Huntsville shall receive for his services such compensation as may be fixed by

the superintendent of education; but in no event shall it exceed one hundred dollars.

§ 132 (1195). *Enumeration of children, report thereof, and compensation.*—The city superintendent shall, during the month of September, 1877, and every two years thereafter, cause to be made an enumeration of all the children, white and colored, male and female, between the ages of seven years and twenty-one years, who reside in the corporate limits of Huntsville, and make report thereof to the superintendent of education by or before the first day of October in each year in which the enumeration shall be taken; and compensation shall be allowed for such enumeration, not to exceed five cents for each person enumerated; but such money may be paid out of the money raised by the city of Huntsville for school purposes.

## ARTICLE V.

### EUFULA.

§ 133 (1200). *Eufaula, a school district.*—The corporate limits of the city of Eufaula shall constitute a school district, separate and distinct from the remaining school districts and parts of districts of the county of Barbour.

§ 134 (1201). *City board of education.*—The public schools of the city of Eufaula shall be under the management of a city board of education, consisting of five members, to be elected annually by the city council of Eufaula, at their first meeting in January, one from each ward of the city, and one from the city at large, who shall serve without pay.

§ 135 (1202). *Management and supervision of city public schools and officers.*—The city board of education, and the public schools subject to their management, shall be under the supervision of the city superintendent of education, with the same powers and duties as county superintendents of education, with such salary as the city board of education may determine, to be paid out of the city treasury, as other city officers are paid. The city superintendent of education shall be elected by the city board of education. The city board of education and the city superintendent shall be under the superintendent of education, as the county school officers are.

§ 136 (1203). *Duties of city superintendent.*—The city superintendent must take general supervision of the public schools in the city, make full and complete reports to the superintendent of education, as the law requires of county superintendents of education, and perform such other duties as are required of county superintendents under the general school law.

§ 137 (1204). *Apportionment and disbursement of school revenues.*—The city of Eufaula, as such school district, shall receive its proportionate share of the public school fund, including a *pro rata* share of the sixteenth section fund of each township that lies partly within the corporate limits of the city, such fund to be drawn and disbursed by the city superintendent of education, in the same manner as county superintendents of education draw and disburse funds for their respective counties, and the amounts thus drawn by the city superintendent of education shall be used exclusively for the maintenance of the free public schools in the city.

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## ARTICLE VI.

### BIRMINGHAM.

§ 138 (1196). *Birmingham, a school district.*—The corporate limits of the city of Birmingham shall constitute a school district separate from the remaining school districts of the county of Jefferson.

§ 139 (1197). *School revenues, and their disbursement.*—The city of Birmingham, as such separate school district, shall receive the proportionate share of the public school fund coming to the county of Jefferson, including a *pro rata* share of the sixteenth section fund of each township that lies partly within the corporate limits of the city, the fund to be drawn and distributed by the city superintendent of education in the same manner as county superintendents of education draw and disburse funds for their respective counties, and the amount thus drawn by the city superintendent of education shall be used exclusively for the maintenance of public schools in the city; and the city of Birmingham is authorized to increase its school fund by receiving donations, but for the disbursements of all donated funds, the city superintendent shall not be entitled to any compensation.

§ 140 (1198). *City superintendent; his oath, bond, and general duties.*—The board of mayor and aldermen of Birmingham is authorized to elect a city superintendent of education, at any regular meeting, every four years. Such superintendent shall, before entering on the duties of the office, take the oath of office prescribed by law for all officers in this state, and shall give bond in such sum as may be fixed by the board of mayor and aldermen, but to be for not less than double the amount of money which he may have in his hands at any one time, and conditioned as all other official bonds. Such bond shall be approved by the mayor of Birmingham,

and filed with other official bonds of the city, and a copy thereof, certified by the clerk of the city, shall be sent to the state superintendent of education, to be approved by him also, and filed in his office. Such city superintendent of education shall perform such duties as may be required of him by state laws and by municipal regulations subordinate to such state laws.

§ 141 (1199). *Removal of superintendent; vacancy, how filled; disqualification; commission; salary.*—The superintendent of education for the city of Birmingham may be removed for cause, at any time, by either the mayor and board of aldermen of Birmingham, or by the state superintendent of education; and when removed by either, he shall be ineligible to re-election during the term for which he was originally elected. All vacancies in the office of city superintendent shall be filled by election by the board of mayor and aldermen, at any regular meeting, and the person so elected shall hold for the unexpired term, and shall qualify and give bond as provided in the preceding section. The city superintendent of education for Birmingham shall be commissioned by the state superintendent of education, and he shall receive such salary, to be paid out of the city treasury, as the board of mayor and aldermen may fix, not to exceed one hundred dollars.

## ARTICLE VII.

### OPELIKA.

§ 142 (1205). *Opelika, a school district.*—The corporate limits of the city of Opelika shall constitute a school district, separate and distinct from the remaining school districts and parts of school districts of the county of Lee, and the general law regulating the public schools of the state shall apply to such school district, except as hereinafter provided.

§ 143 (1206). *City board of trustees.*—The public schools of the city of Opelika shall be under the control of the city board of trustees, consisting of nine members, to be elected by the city council of Opelika at their first meeting in January, 1877, and every two years thereafter, of whom five shall constitute a quorum for the transaction of business.

§ 144 (1207). *Chairman of board; treasurer; powers and duties of board.*—The board of trustees, at their first meeting, shall elect one of their number chairman, and a treasurer, who shall give bond in double the amount of any moneys that may come into his hands; and the board of trustees shall exercise all powers, and be subjected to all the duties prescribed by law for township board of trustees, but in addition

to such powers and duties, the board may exercise all other powers and discharge all other duties imposed by the ordinances of the city council, for the city of Opelika, so far as may be involved in the collection and distribution of money arising from local and special laws, or from any other source than the school fund of the state.

§ 145 (1208). *Election of city superintendent and teachers; rules and regulations for schools.*—The city board of trustees shall have power to elect a city superintendent of public schools, and such teachers as may be necessary in the schools, and shall establish such rules and regulations for the management of such schools as are not inconsistent with the school laws.

§ 146 (1209). *The city superintendent, and his duties.*—The city superintendent shall have a general supervision of all the public schools in the city, and may teach in one of the schools of the highest grade, and shall receive such compensation, be subject to such rules and regulations as the city board of trustees may establish, and shall make full and complete reports to the county superintendent as are required by law, and shall perform such other duties as city superintendent and principal teacher as may be required by the city board of trustees, not inconsistent with the general school laws of the state.

§ 147 (1210). *Pro rata share of school moneys; applied only to payment of teachers.*—The city of Opelika, as a separate school district, shall receive its proportionate share of the school revenues apportioned to the county of Lee, including a *pro rata* share of the sixteenth section fund of each township that lies partly within the corporate limits of the city, and all the poll tax collected in the corporate limits of the city; and the county superintendent of education of Lee county shall keep the moneys separate and apart from the other school revenues of the county of Lee, to be used exclusively for the payment of teachers in the public schools of the city of Opelika.

§ 148 (1211). *Approval and payment of teachers' accounts.*—The accounts of teachers for services rendered in the public schools of the city of Opelika, when approved by the board of trustees, shall be paid by the county superintendent of education of Lee county, as other teachers in said county are paid.

§ 149 (1212). *Receipt and disbursement of other than school revenue.*—The board of trustees of the city of Opelika may receive and disburse all moneys derived from taxation, appropriation or otherwise, exclusive of that received from the public school revenue, under such rules and regulations as

the city board of trustees may provide, subject to the provisions of the fifth preceding section.

## ARTICLE VIII.

### DADEVILLE.

§ 150 (1185). *Dadeville a separate district.*—The corporate limits of Dadeville, Tallapoosa county, Alabama, shall constitute a school district separate and apart from the remaining school districts of the county of Tallapoosa.

§ 151 (1186). *Pro rata share of school revenues set apart and used in the town.*—The town of Dadeville, as such school district, shall receive its proportionate share of the public school revenue, including a *pro rata* share of the sixteenth section fund of each township that lies partly within the corporate limits of the town, and shall also receive all the tax collected as poll tax within the corporate limits of the town; and the superintendent of education of Tallapoosa county shall set apart from the public school revenues of the county, and disburse and use such *pro rata* share exclusively for the maintenance of the public schools in the town of Dadeville.

§ 152 (1187). *County superintendent co-operates with town in keeping up schools.*—The county superintendent of education of Tallapoosa county, shall co-operate with the intendant and board of councilmen of the town of Dadeville in keeping up the schools, both white and colored, in the town of Dadeville.

§ 153 (1188). *Trustees and their powers and duties.*—The intendant and board of councilmen of the town of Dadeville shall constitute a board of trustees for the school district; and the board of trustees are authorized to establish and locate the number of public schools to be taught each year within the school district, whether for males or females, white or colored; and perform all other duties imposed on other township trustees in this state.

§ 154 (1189). *Control and disburse revenues of district.*—The board of trustees, as constituted in the preceding section, shall control, manage and disburse all revenues which may be raised by special tax or otherwise for the maintenance of the public schools within the limits of the town of Dadeville, under such rules and regulations as such board of trustees may prescribe; but where donations or contributions are made to a school in the district, the board of trustees shall apply the donations or contributions in the manner indicated by the parties contributing.

## ARTICLE IX.

## OXMOOR.

§ 155 (1232). *District conditionally established; its boundaries.*—A separate school district, to be known as the “Oxmoor district,” is hereby established, as hereinafter provided, at Oxmoor, in the county of Jefferson, in townships 18 and 19, range 3, west, the boundary of which shall be one mile and three-quarters each way from the Eureka furnace.

§ 156 (1233). *Trustees named; duty to hold election to ascertain will of citizens of district; vote taken viva voce; two-thirds majority thereof being property holders, necessary to establish district.*—James Thomas, Henry Fancher, John W. Perry, R. C. Bradley, A. Bears, W. S. Earnest, and James O’Neal, are appointed trustees of the school district, who shall, on the first Monday in May, 1877, hold an election in the district for the purpose of ascertaining the will of the citizens of the district; the vote shall be taken *viva voce* for or against the school district, and if two-thirds of the voters vote for the district, and a majority of the two-thirds be property holders, then the above trustees shall proceed to establish the school district under the regulations hereinafter set forth.

§ 157 (1234). *Power of trustees to levy taxes for school and building purposes.*—The trustees, and their successors in office, shall have the power to levy a tax on all property, both real and personal, within the bounds of such school district, not to exceed half of one per cent. for school purposes; and for the first and second years, half of one per cent. for building purposes.

§ 158 (1235). *Trustees may buy lands for school houses; deeds taken to themselves; may build school houses, and until built may rent; may employ teachers.*—The trustees shall have the right to buy lands for the purpose of building school houses, taking the deeds to themselves and successors, and to build suitable houses for schools, and to employ teachers for the present year, and for the purposes of schools, until they can build, shall have the power to rent suitable houses.

§ 159 (1236). *Election and terms of trustees.*—On the first Monday in May, 1878, there shall be an election held to elect six trustees in the school district, two of whom shall hold their office for one year, two for two years, and two for three years. At the first meeting of the trustees after the election, they shall draw lots for the terms, and two shall thereafter be elected annually.

§ 160 (1237). *Powers of trustees; may be sued.*—The trustees shall have the power to sue and be sued, to buy and

sell property, or to exchange, not to exceed three thousand dollars; but shall not have the power to create any mortgages or liens on the property, or to create any debt to exceed two hundred dollars.

§ 161 (1238). *Proportional share of school revenue; poll tax.* The trustees shall receive from the county superintendent the proportional share of the school fund apportioned to townships 18 and 19, range 3, west, according to the number of children in such district of the proper school age; they shall also receive all the poll tax paid by the tax-payers within Oxmoor district; but the poll tax paid by white tax-payers shall be appropriated to the white schools, and the poll tax paid by colored tax-payers shall be appropriated to the colored schools.

§ 162 (1239). *Trustee must be property holder, liable to taxation in district.*—No person shall be elected a trustee who is not a property holder, liable to be taxed within the limits of the school district.

§ 163 (1240). *Schools to be established, time each year.*—The trustees shall establish two or more public schools, one for the white and one for the colored children, in the school district, for not less than four months nor more than ten months every year.

§ 164 (1241). *Vacancy in board of trustees; how filled.*—When a vacancy occurs of one or more of the board of trustees, the remaining trustee or trustees shall fill the vacancy until the next regular election.

§ 165 (1242). *Trustees may receive pupils not living within the district.*—The trustees shall have power to receive any scholars not living within the limits of the district on such terms as may be agreed upon.

§ 166 (1243). *The powers granted in this article not to affect special liquor prohibition law.*—The powers herein granted shall not alter, abridge or otherwise effect the law now in force prohibiting the sale of intoxicating liquor within a certain limit.

§ 167 (1244). *Elections governed by general law, except otherwise provided.*—All elections in said district shall be governed by the laws of the state, except as provided for in section two of this article.

## ARTICLE X.

### MARION.\*

§ 168. *Marion a school district.*—The corporate limits of the

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\*The town of Marion was constituted a separate school district by Act approved February 5, 1877.

town of Marion, in Perry county, shall constitute a public school district, separate and apart from the other school districts in said county, and the inhabitants of such district are hereby incorporated by the name of the "School District of Marion."

§ 169. *Board of trustees ; powers.*—To carry out the purposes of said incorporation P. B. Lawson, B. M. Hewey, A. C. Howze, J. G. Apsey and H. H. Hurt are hereby constituted and appointed a board of trustees of said "School District of Marion," who shall have power to purchase, receive, hold and convey for and in behalf of said school district, all such real and personal property as may be necessary or proper for the purposes of such incorporation, and who shall control the disposition of all funds which may be received by or for said school district.

§ 170. *Trustees organize ; secretary ; treasurer.*—As soon as practicable after the passage of this act, the said persons hereinabove named, or a majority thereof, shall proceed to organize said board of trustees by electing one of their number president of the board, and by electing some suitable person or persons, whether members of the board or not, as secretary of the board, and treasurer of the school district ; *Provided, however,* The secretary of the board and treasurer of the district may be one and the same person if the board shall so elect.

§ 171. *Terms of service.*—The term of service of the persons hereinabove named as trustees shall be two years from the approval of this act, and their successors and all subsequent boards of trustees for such school district, shall be elected by the mayor and council of the town of Marion, and the terms of service of all trustees elected by such mayor and council shall be for two years, except when a trustee is elected to fill a vacancy before the expiration of the regular term, in which event the person so elected shall only hold until the beginning of the next regular term, or until his successor shall be elected.

§ 172. *Compensation of secretary and treasurer ; expenses limited to four per cent.*—The terms of service of the secretary and treasurer shall be for two years from the date of their election, but they may be removed by said board of trustees at any time. They shall receive such compensation as may be fixed by the board of trustees, out of the funds of the school district ; *Provided, however,* That not more than four per centum of all funds received by said district from the State for school purposes, shall be used for any other purpose than the payment of teachers in the free public schools of said district. The board shall require of the treasurer so elected a bond in such amount as may be fixed by them, pay-

able to said school district, and to be approved by the president of the board and filed with him, conditioned safely to keep and to disburse according to law all money which may come into his hands as treasurer of said school district. A copy of said bond, certified by the president of the board, shall be filed in the office of the State superintendent of education. The board may require a new or additional bond, with other or additional securities, and a different amount, whenever they see proper so to do.

§ 173. *District receives school fund.*—Whenever the said board shall be organized in accordance with the provisions of this act, the said school district shall be entitled to receive its proportionate share of all funds raised or appropriated by the State for public schools, and shall also receive its *pro rata* share of the sixteenth section interest accruing to the several townships of parts of which the said school district of Marion is composed, and it shall also receive all poll tax which may be collected from residents of said school district, and all funds which may be appropriated by the mayor and council of the town of Marion, or which may be donated for said school district. All funds for said school district shall be paid to the treasurer of the district, who shall receipt for the same; and the superintendent of education for the State shall give the necessary orders and instructions, and issue the necessary certificates to secure payment to such school district of all funds to which it may be entitled from the State or from poll tax.

§ 174. *Establish schools; grades, teachers, text books.*—Said board of trustees shall take such measures as may be proper to establish such schools in said district as may be necessary for the accommodation of the youth thereof, of each race, to grade such schools, prescribe the text books to be used therein, employ teachers, and generally to make such rules and regulations for such school district, and its schools as to them may seem best, and not in conflict with the laws of this State.

§ 175. *All grades below high school, free.*—All schools or school grades which may be established by said board in said school district below high schools, or high school grades, shall be absolutely free for all persons between the ages of seven and twenty-one years, living in the school district, and belonging to the race for which the school was established; but the board may, in their discretion, exact of all pupils attending the high schools, or high school grades, a tuition fee of not exceeding five dollars per month.

§ 176. *City superintendent of schools.*—Said board may, in their discretion, elect a city superintendent of schools and prescribe his duties, term of service and compensation.

§ 177. *Reports to superintendent of education.*—Said board

of trustees shall require to be made out and furnished to the superintendent of education all such reports as may be prescribed by law, or as may be required by him.

§ 178. *Trustees receive no compensation.*—The trustees of said school district of Marion shall receive no compensation for their services as such trustees.

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## CHAPTER 7.

### NORMAL SCHOOLS.

#### ARTICLE I.

##### NORMAL SCHOOL FOR WHITE MALE AND FEMALE TEACHERS AT FLORENCE.

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§ 179 (1263). *The school established, appropriation for its support.*—There is permanently established, in the Florence Wesleyan University buildings at Florence, in Lauderdale county, in this State, a school for the education of white male and female teachers, who shall be taught therein on such conditions and under such restrictions as may be prescribed; and there shall be annually appropriated and set apart, from the first day of October, at least five thousand dollars out of the general educational revenue apportioned to the whites, for the support and maintenance of the school; but no portion of the same shall be used for any other purpose than the payment of the salaries of the faculty.

§ 180 (1264). *Board of directors; style of board; no compensation; term of office.*—A board of directors is established, consisting of the following named persons: A. H. Jones, James B. Irwin, N. H. Rice, R. M. Patton, T. T. Allington, B. P. Joiner, R. O. Pickett, W. B. Wood and Hon. Joseph H. Speed, superintendent of education, and which shall be known by the name and style of the Board of Directors of the State Normal School; and the directors shall hold their office at the pleasure of the board, and shall receive no compensation.

§ 181 (1265). *Vacancy in board, how filled.*—Any vacancy in the board of directors, caused by death, resignation, or otherwise, shall be filled by the remaining members.

§ 182 (1266.) *Meetings of board of directors.*—The board of directors shall meet at such times and places as it shall appoint.

§ 183 (1267). *President of board; treasurer, and his bond and term of office; secretary and his term of office.*—The board of directors shall choose one of their number as president of their board, who shall not vote on any question, except in

case of a tie; and they shall elect a secretary and treasurer, and they shall take such bond from such treasurer as they shall deem sufficient and adequate to secure the faithful performance of his duties, in at least double the amount that he may have in hand at any one time; bond to be approved by the county superintendent and probate judge of Lauderdale county, and a certified copy thereof filed in the office of the superintendent of education. The secretary and treasurer shall be chosen annually, and shall hold their offices until their successors are elected and qualified.

§ 184 (1268). *The board of directors disposes of money according to law, and prescribes duties of secretary and treasurer.* The board of directors shall, under the restrictions and limitations of law, direct the disposal of any and all moneys appropriated to the school, and shall prescribe the duties of the secretary and treasurer thereof.

§ 185 (1269). *Organization of the school.*—It shall be the duty of the board to organize such normal school upon the most approved plan; to elect a president, and a complete and sufficient corps of instructors, who shall constitute the faculty of such normal school; and the board shall adopt such rules and regulations as may be necessary for the organization and successful operation of such normal school.

§ 186 (1270). *Duties of faculty.*—It shall be the duty of the faculty to establish a course of instruction with special reference to educating teachers in the theory and practice of teaching; to pass all needful rules and regulations necessary for the discipline of the normal school.

§ 187 (1271). *The president of the board of directors reports annually to superintendent.*—The president of the board of directors shall make a full and complete annual report to the superintendent of education of the operations of the normal school, specifying the number of pupils, the number of professors or teachers, the amount of salary of each, the amount of money received and disbursed, and such other information as may be required by law.

§ 188 (1272). *Rules governing admission of pupils.*—Applicants for admission to the normal school shall be not less than fifteen years of age, and shall sustain a satisfactory examination in such studies as may be required by the faculty,

§ 189 (1273). *Students admitted from any part of state; of the obligation to teach.*—Students shall be admitted from any portion of the State, and shall receive instructions free of charge for tuition, upon signing a written obligation to teach at least two years in the public schools of Alabama; and the obligation shall be filed in the office of superintendent of education. Any student may be released from the obligation by

paying such tuition as may be established by the board of directors.

§ 190 (1274). *Certificate of graduation, and to what it entitles.* Upon the completion of the prescribed course of study in the normal school, and after sustaining a satisfactory examination, upon the recommendation of the president, approved by the board of directors, the superintendent of education shall issue a State certificate to the graduates of the normal school, which shall entitle them to teach in any public school in the State, without any further examination.

§ 191 (1275). *Public or other school established in connection.* In connection with the normal school, there may be established a public school, or other school.

§ 192 (1276). *Money appropriated, how drawn.*—The money appropriated and due to the school shall be certified semi-annually, by the superintendent of education, to the State auditor, upon application of the president of the board of directors, and the State auditor shall thereupon draw his warrant on the State treasurer in favor of the treasurer of the normal school for the amount thus certified.

## ARTICLE II.

### NORMAL SCHOOL AND UNIVERSITY FOR COLORED TEACHERS AND STUDENTS AT MARION.

§ 193 (1245). *Normal school with university department at Marion established.*—There is permanently established in the Lincoln school building, at Marion, a state normal school and university for colored teachers and students; and such normal school and university shall be operated under restrictions and on conditions provided by law. And as an additional consideration for the above named use of the school building, there shall be annually appropriated and set apart four thousand dollars of the general educational fund apportioned to the colored race for the support and maintenance of such normal school and university; but not more than four per cent. of such appropriation may be used annually for keeping the buildings of the institution in repair.

§ 194 (1246). *Board of directors, no compensation.*—Porter King, John Harris, C. W. Lovelace, John Moore, Peter Hurt, N. B. Mardis and A. H. Curtis shall constitute a board of directors, which shall be known by the name and style of the board of directors of the state normal school and university for the colored race; and the directors shall receive no compensation.

§ 195 (1247). *Vacancy in board, how filled.*—A vacancy in

the board of directors, caused by death, resignation, or otherwise, shall be filled by the remaining members.

§ 196a (1248). *Times and places when board of directors meet.* The board of directors shall meet at such times and places as the board may appoint.

§ 197 (1249). *President, treasurer and his bond, and secretary.*—At their first meeting, the members of the board of directors shall choose one of their number as president of their own board, who shall not vote on any question except in case of a tie; and they shall elect a secretary and treasurer, and they shall take such bond from such treasurer as they shall deem sufficient and adequate to secure the faithful performance of his duties, in at least double the amount that he may have in hand at any one time; the bond to be approved by the county superintendent and probate judge of Perry county, and a certified copy thereof filed in the office of the superintendent of education. The secretary and treasurer shall be chosen annually, and shall hold their offices until their successors are elected and qualified.

§ 198 (1250). *Board directs disposal of money and prescribes duties of secretary and treasurer.*—The board shall, under the restrictions and limitations of this article, direct the disposal of any and all moneys appropriated to the school, and shall prescribe the duties of the secretary and treasurer thereof.

§ 199 (1251). *Board shall organize normal school with university department.*—It shall be the duty of the board to organize a normal school upon the most approved plan, and in connection therewith a university department, in which such a course of instruction shall be established as shall meet the wants of the colored race, and provide for their education in the higher departments of learning, it being the intent and purpose of this act to provide for the liberal education of the colored race in the same manner as is already provided for the education of the white race in our university and colleges. The board of directors shall elect a president and a sufficient corps of instructors, who shall constitute the faculty of the normal school and university; and shall adopt such rules and regulations as may be necessary for the organization and successful operation of the normal school and university, and the faculty shall have power to pass all rules and regulations necessary for the discipline of such institution, subject to the approval of the board of directors.

§ 200 (1252). *President of board of directors must make annual report.*—The president of the board of directors shall make a full and complete annual report to the superintendent of education of the operations of normal school and university, specifying the number of pupils, the number of professors or teachers, the amount of salary of each, the amount

of money received and disbursed, and such other information as may be required by law.

§ 201 (1253). *Qualifications of applicants for admission.*—Applicants for admission to the normal school and university shall be not less than fourteen years of age, and shall sustain a satisfactory examination in such studies as may be required by the faculty.

§ 202 (1254). *Pupils admitted from any part of the state; their obligation to teach.*—Students shall be admitted from any portion of the state, and shall receive instruction free of charge for tuition, upon signing a written obligation to teach at least two years in the public schools of Alabama, and the obligation shall be filed in the office of superintendent of education; but any student may be released from the obligation by paying such tuition as may be established by the board of directors.

§ 203 (1255). *State certificate issued to graduates.*—Upon the completion of the prescribed course of study in the normal school and university, and after sustaining a satisfactory examination, upon the recommendation of the president, approved by the board of directors, the superintendent of education shall issue a state certificate to the graduates of the normal school and university.

§ 204 (1256). *Public or other schools may be established in connection.*—In connection with the normal school and university there may be established a public school or other school.

§ 205 (1257). *How money belonging to school shall be drawn.* The money appropriated and due to the school shall be certified semi-annually by the superintendent of education to the state auditor, upon application of the president of the board of directors, and the state auditor shall thereupon draw his warrant upon the state treasurer in favor of the treasurer of the normal school and university, for the amount thus certified.

### ARTICLE III.

#### NORMAL SCHOOL FOR COLORED TEACHERS AT HUNTSVILLE.

§ 206 (1258). *Establishment of school; admission of pupils; number required; must be taught nine months annually.*—There shall be at Huntsville, in this state, a normal school for the education of colored teachers. Pupils shall be admitted free of charge for tuition in the school, on giving an obligation in writing to teach in the free public schools of this state for two years after they become qualified. The school shall not be begun or continued with a less number than twenty-five

pupils, nor shall the school be taught for a less period than nine months in each year.

§ 207 (1259). *Appropriation for school.*—There is appropriated out of the general school revenue set apart to the colored children, the sum of one thousand dollars, annually, for the maintenance and support of the school, and the apportionment of the general fund for the colored race shall be made to the different counties of this state after the deduction of the sum of one thousand dollars herein appropriated for the school at Huntsville.

§ 208 (1260). *School under control of three commissioners, who elect chairman and make quarterly reports.*—The school shall be under the direction, control and supervision of a board of three commissioners, who shall consist of the following persons, to-wit: John M. Crowder, W. S. Fletcher and Stephen Johnson, who may fill any vacancy that may occur in the board of commissioners. The commissioners shall elect one of their number chairman, and they shall report quarterly to the superintendent of education how many pupils have been in attendance, what branches have been taught, and other facts of interest and importance appertaining to the school.

§ 209 (1261). *Bond required of chairman, approval thereof; certified copy filed in office of superintendent.*—The chairman of the board of commissioners shall give bond in double the amount of the appropriation to the school, for the legal and faithful application of the sum appropriated, the bond to be approved by the judge of probate of Madison county, and a certified copy thereof sent to the superintendent of education to be filed in his office.

§ 210 (1262). *Money, how drawn.*—The chairman of the board of commissioners, after having given bond as hereinbefore prescribed, and the bond shall have been approved as herein provided, and a certified copy thereof filed in office of superintendent of education, shall present to the superintendent of education a requisition for the amount herein appropriated, and the superintendent of education shall thereupon certify the amount of one thousand dollars to the state auditor, who shall draw his warrant for the sum on the state treasurer, payable to the chairman of the board of commissioners, for the maintenance and support of the normal school.

## CHAPTER 8.

## SUMMARY REMEDIES.

## ARTICLE I.

## SUMMARY JUDGMENTS AGAINST DEFAULTERS.

§ 211 (3397). *Tax collectors, county treasurers, and ex-county superintendents and their sureties.*—Summary judgments must be rendered, on motion, after ten days notice, in favor of the county superintendent of education for the use of his county, against the defaulters hereinafter named and the sureties on their official bonds, or any one of them, in the circuit court, or other courts having jurisdiction, of the county in which the defendants or any of them reside, in the following cases :

1. Against the tax collector and his sureties for the failure of such collector to pay over according to law, the school money due his county, as shown by the auditor's warrant on him, or so much thereof as he may have collected, or for the failure of such collector to pay over, according to law, all the poll tax collected by him ; said judgment to be for the amount for which the collector is in default, interest from time of default, and twenty per centum damages thereon and court costs.

2. Against a county treasurer and his sureties, for failing to pay over, according to law, all school moneys now in his hands, or which may hereafter come into his hands ; such judgment to be for amount due by such treasurer, interest thereon from time of default, and twenty per cent. damages thereon and court costs.

3. Against any county superintendent of education who has resigned, removed from his county, or been legally removed from office, or whose term of office has expired, and the sureties on the official bond of such superintendent, or any of them, such judgment to be for the amount of school money belonging to his county, and which has not been legally disbursed by him, or paid over to his successor in office, and in favor of such successor, if there is one, for the amount due by such superintendent, interest from time of default, and twenty per cent. damages, besides court costs ; and in all cases where there is no successor, then such judgment must be rendered in favor of the superintendent of education, on his motion, for the use of the county in which such defaulting officer resided, and the money, when recov-

ered by the superintendent of education, must be turned over to the county superintendent when appointed and qualified.

§ 212 (3398). *Attorneys employed, and their compensation.* The county superintendent of education in each county may employ attorneys to prosecute actions under the provisions of this article against the defaulters and their sureties; but in no case shall any attorney receive more than ten per cent.\* of the amount which may be collected on any judgment obtained by him, or of the amount which may be otherwise recovered by him.

§ 213 (3399). *Notice, its contents, and by whom served.*—The notice hereinbefore prescribed, upon which the action may be commenced, must be served by any sheriff of this state, and such notice must succinctly state the cause for which the motion will be made, and the court and term at which the motion will be made.

§ 214 (3400). *Transcripts evidence.*—In all actions commenced and prosecuted under the provisions of this article, a transcript from the books and records in the office of the superintendent of education, or of the auditor, certified under the hands of those officers respectively, shall be *prima facie* evidence of the facts shown by them.

§ 215 (3401). *Mode and time of trial.*—If the notice herein required has been given, the motion shall stand for trial at the first term, and the court must hear and determine the motion, and render judgment upon the evidence without a jury, unless a jury trial be demanded, when a jury must be immediately empaneled to try the facts, unless a good cause be shown for continuance.

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\*The Constitution, Section 6, Article 13, prohibits the use or expending of more than four per cent. of all moneys appropriated for the support of public schools "otherwise than for the payment of teachers employed in such schools."



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APPENDIX.

FORMS.

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[No. 1.]

*Certificate of Election, or Appointment, of Trustees of Public Schools.*

THE STATE OF ALABAMA, }  
COUNTY. } \_\_\_\_\_, A. D. 187 .

To \_\_\_\_\_, Greeting :

This certifies that you, the said \_\_\_\_\_, were, on the \_\_\_\_\_ day of \_\_\_\_\_, elected (or appointed) to the office of trustee of public schools for township —, range —, (or district —), and are by virtue thereof fully authorized and empowered to discharge all the duties of said office, and to exercise all the powers thereto belonging, according to law.

Witness my hand, this — day of \_\_\_\_\_, A. D. 187 .

\_\_\_\_\_  
Co. Sup't Ed'n.

[No. 2.]

*Note given by Purchaser of School Land.*

\$

— year after date, we or either of us promise to pay to the State of Alabama, for the use of township -- range — in \_\_\_\_\_ county, the sum of \_\_\_\_\_ dollars, with interest from date, for the purchase of—(specify legal subdivisions)—of section sixteen of said township.

Witness our hands and seals, this — day of —, A. D. 187 .

[seal.]

[seal.]

[seal.]

Approved this — day of —, A. D. 187 .

} Trustees.

[No. 3.]

*Certificate of Purchase of School Lands.*

THE STATE OF ALABAMA, }  
 COUNTY. }                    ————, A. D. 187 .

The undersigned, trustees of public schools in and for township — range — in said county, hereby certify that on the — day of —, A. D. 187 , they proceeded to sell at public outcry (all the preliminary requisites of the law in reference to such sale having been complied with) Lot No. —, being the—(*the northeast quarter of northwest quarter of*) section sixteen in said township, containing — acres; that at said sale — —, being the highest bidder, became the purchaser of said tract, at and for the sum of — dollars, for which he gave his — several notes, each for — dollars, with interest from date of said sale, with — — and — — as his sureties.

} Trustees.

[No. 4.]

*Lease of School Land.*

THE STATE OF ALABAMA, }  
 COUNTY. }

This agreement, made this — day of —, A. D. 187 , between — — and — —, trustees of public schools in and for township — range — in said county, and — —, witnesseth: that in consideration of — dollars, to be paid by said — — to the trustees of public schools for said township, on the — day of —, A. D. 187 , and each year thereafter during the continuance of the lease, for which the said — — has given his several promissory notes, payable as aforesaid, and bearing even date with this instrument, the said trustees have granted, demised, leased, and to farm let, unto the said — —, his representatives and assigns, section sixteen (*or southeast quarter of southwest quarter of section sixteen, as the case may be*) in said township, in said county and State; to have and to hold unto the said — — his representatives and assigns for the term of — — (not exceeding five) years, from the — day of —, 187 . The said — — agrees to deliver up the premises aforesaid, with the appurtenances, on the last day of the term, or other earlier termination of the estate hereby granted, to the said

trustees or their successors in office. In witness whereof the said parties have hereunto set their hands and seals, the day and year above written.

Attest: [seal] }  
[seal] } Trustees.  
[seal] }  
[seal]

[No. 5.]

*Trustees' Enumeration Report.*

To \_\_\_\_\_,

County Superintendent of Education, of \_\_\_\_\_ County.

The undersigned, trustees of township — range —, in — county, do hereby certify that we have made an enumeration of the children between the ages of seven and twenty-one years in said township, and find the same to be as follows:

WHITES : Males — ; Females — .  
COLORED : Males — ; Females — ,

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ } Trustees.

We, (or I) \_\_\_\_\_, do solemnly swear that the above report of persons between the ages of seven and twenty-one years in township — range —, — county, is correct according to our (or my) best knowledge, information and belief.

Sworn to and subscribed before me, }  
this — day of —, 187 . \_\_\_\_\_ }  
\_\_\_\_\_ }

(Note.—To be made (in duplicate) during the month of August, 1878, and every two years thereafter, and forwarded to the county superintendent of education by the 15th of September following.)

[No. 6.]

*School Contract.*

THE STATE OF ALABAMA, }  
COUNTY. }

This agreement, made this — day of —, A. D. 187 , between —, teacher, and —, — and —, trustees of public schools in and for township — range —, in

said county, witnesseth : that the said \_\_\_\_\_ agrees to teach a public school for the \_\_\_\_\_ race at \_\_\_\_\_ in said township, for the term of \_\_\_\_\_ scholastic months, beginning on the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 187 . The said \_\_\_\_\_ further engages to exert the utmost of his ability in conducting said school, and improving the education and morals of the pupils ; to keep such register and make such reports to trustees and county superintendent of education as may be required of him ; and in all respects to conform to the requirements of law.

In consideration of these services, properly rendered, the trustees aforesaid agree to pay the said \_\_\_\_\_, at the expiration of the scholastic year, a *pro rata* share of the public school fund apportioned to said race in said township for the scholastic year ending September 30, 187 , according to the number of days reported in said teacher's annual report of the actual attendance of each pupil. *Provided*, That there shall be in said school an average daily attendance of not less than ten pupils within the educational age.

\_\_\_\_\_ , Teacher.  
 \_\_\_\_\_ }  
 \_\_\_\_\_ } Trustees.  
 \_\_\_\_\_ }

[No. 7.]

*Annulment of Contract and Removal of Teacher.*

THE STATE OF ALABAMA, }  
 COUNTY. } \_\_\_\_\_ , A. D. 187 .

To \_\_\_\_\_ , Teacher.

You are hereby notified that the contract heretofore made, to-wit: on the \_\_\_\_\_ day of \_\_\_\_\_, 187 , by and between you as teacher, and \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_, trustees of public schools for township \_\_\_\_\_, range \_\_\_\_\_, in said county, is hereby annulled, and you are hereby removed as teacher of said school.

You will make report as required by law of teachers of public schools.

\_\_\_\_\_ }  
 \_\_\_\_\_ } Trustees.  
 \_\_\_\_\_ }

No. 8. *Teacher's Register (white or colored) Public School No.—*  
*T—, R—.*

		FIRST WEEK.					SECOND WEEK.				
		Monday	Tuesday	Wednesday	Thursday	Friday	Monday	Tuesday	Wednesday	Thursday	Friday
Weekly Summary.											
Where living.....											
Number of District											
Age.....											
Names of Pupils. ...											
Number.....											



[No. 10.]

*Warrant to be Drawn (in Duplicate) by Trustees on the County Superintendent of Education for the Amount due Teachers.*

§ \_\_\_\_\_, 187 .

To A. B., Co. Sup't of Education, \_\_\_\_\_ County :

Pay to C. D., teacher of a (white or colored) public school, No. —, the sum of \_\_\_\_\_ dollars from the \_\_\_\_\_ school fund apportioned to the (white or colored) race in township — range —, \_\_\_\_\_ county, for teaching \_\_\_\_\_ (the number) children, between the ages of 7 and 21 years, of said township, in the scholastic year ending September 30, 187 . The school was taught — days in township — range —, \_\_\_\_\_ county, and the aggregate attendance of said children was — days.\*

By order of the Board of Trustees.

G. H.

Clerk of Board.

[No. 11.]

*Teacher's Receipt.*

§ \_\_\_\_\_, 187 .

Received of A. B., County Superintendent of Education, \_\_\_\_\_ county, the sum of \_\_\_\_\_ dollars for teaching \_\_\_\_\_ (the number) children of township — range —, an aggregate of — days in (white or colored) public school No. — in township — range —, \_\_\_\_\_ county, during the year ending September 30, 187 .

No. —. \_\_\_\_\_, Teacher.

\*If the warrant is drawn upon the 16th section fund of a township of less than ten children within the educational age, the following should be added: "We certify that there are not ten children within the educational age in said township,"—and the words "16th section" inserted before the words "school fund," in the warrant.

No. 12. Annual Report of ..... Co. Supt for ..... schools in ..... County, Ala., for the Scholastic Year ending September 30, 187.....

AMOUNT OF SCHOOL MONEY RECEIVED FROM ALL SOURCES TO THE END OF THE YEAR.	TOTAL AMOUNT DISBURSED.		RANGE.....		TOWNSHIP.....	
	Amount from tax collector on Auditor's warrant.....	Amount paid to teachers...	Amount of commissions and salary of County superintendent of education...	ENROLL- ED.	IN ATTEN- DANCE.	NUMBER OF PUPILS.
Amount from poll tax .....			Male.....	Female.....		Reading.....
Amount from State Treasury.....			Male.....	Female.....		Writing.....
Amount from other sources-- 16th section leases, local taxes, &c.....			Female.....	Male.....		Arithmetic.....
TOTAL.			Male.....	Female.....		Grammar.....
						Pupils in Orthography.....

No. 12—continued. *Annual Report of ..... Co. Supt for ..... schools in ..... County, Ala., for the Scholastic Year ending September 30, 187.....*

NAMES OF TEACHERS  To whom school money has been paid.	Remarks.....		
	BIENNIAL ENUMERATION OF CHILDREN BETWEEN 7 AND 21 YEARS OF AGE.	Total.....	
		Female.....	
		Male.....	
		Range.....	
		Township.....	
	No. Teacher's Institutes or Conventions held during the year.		
	Number of visits by trustees to schools.....		
	Total estimated value of school furniture, apparatus, &c. ....		
	Total estimated value of same....		
	Total number of public school houses.....		
	Balance to the credit of each township.....		
	POLL TAX FOR EACH TOWN- SHIP.	Amount.....	
		Range.....	
		Township.....	
Amount paid by patrons.....			
County superintendent's commissions—1 per cent.....			
Amount paid by county superintendent of education.....			
Number of days taught.....			

No. 13. *County Superintendent's Ledger account with the School Fund of his County.*

A. B. County Superintendent of Education of ..... County.  
 DR. CR.

187.. 187..

Jan.	To am't on warrant from tax collect'r. " Am't poll tax from tax collector..... " Am't from State Treasury .....	\$	cts	Oct.	By receipts from Su- perintendent educa- tion.....	\$	cts



[No. 15.]

*Illustration for Ascertaining Teachers' Pro Rata Share of Township Fund.*

In township 5 range 5 there are 150 white children, whose public fund from all sources is \$132.00. There are two white public schools in this township, respectively taught by A and B.

A teaches 15 children 5 months or 100 days.

B teaches 20 children 3 months or 60 days.

10 children of this township attend a public school 60 days in township 5, range 6, taught by C.

Total attendance in A's school, 15 children 100 days is	DAYS. 1500
Total attendance in B's school, 20 children 60 days is	1200
Total attendance from this township in C's school, 10 children 60 days, is	600
	3300

The aggregate attendance of 45 children is . . . . . 3300  
 Leaving 105 children who do not attend school during the year, and who do not derive any benefit from the public fund.

\$132.00 township fund of the white race divided by the aggregate number of days, 3300, gives the amount per child per day, 4 cents. Then 1500, A's total number of days, multiplied by 4 cents, gives \$60.00, A's *pro rata* share of the township fund, which should be paid him, provided, he has not a contract with the patrons, which limits him to less.

The *pro rata* share of B and C may be ascertained in the same way, thus:

$$\begin{aligned}
 15 \times 100 &= 1500 \\
 20 \times 60 &= 1200 \\
 10 \times 60 &= 600
 \end{aligned}$$

3300	)	132.00(.04 cts.		1500 × 04 = \$60.00
132.00				1200 × 04 = 48.00
				600 × 04 = 24.00
				\$132.00

Amount of township fund for white race    \$132.00

[No. 16.]

*Receipt for Poll Tax (Triplicate.)*

THE STATE OF ALABAMA, } \_\_\_\_\_, 187 .  
 COUNTY. }

\$

Received of \_\_\_\_\_, tax collector, the sum of \_\_\_\_\_

dollars, being ——— payment of poll tax collected during the  
month of ———, 187 , school fund of scholastic year 187 .

—————,  
Co. Sup't of Ed'n.

Approved :

—————,  
Judge of Probate.

—————  
[No. 17.]

*Receipt for Money Paid on Auditor's Warrant (Triplicate.)*

THE STATE OF ALABAMA, } ——— ——— ———, 187.  
COUNTY. }

§

Received of ——— ———, tax collector, the sum of — ———  
dollars, being ——— payment of Auditor's warrant, dated ———  
187 , for school fund of scholastic year, 187 .

—————,  
Co. Sup't Ed.

Approved :

—————,  
Judge of Probate.

## ADDENDA.

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§ 41a (966).—*Township, or district, in corporate capacity, may hold real and personal property; managed by trustees.*— Each township, or other school district, in its corporate capacity as created by law, may hold real and personal property; and the business of such corporations, in relation to public schools and school lands, shall be managed by the township or district trustees.

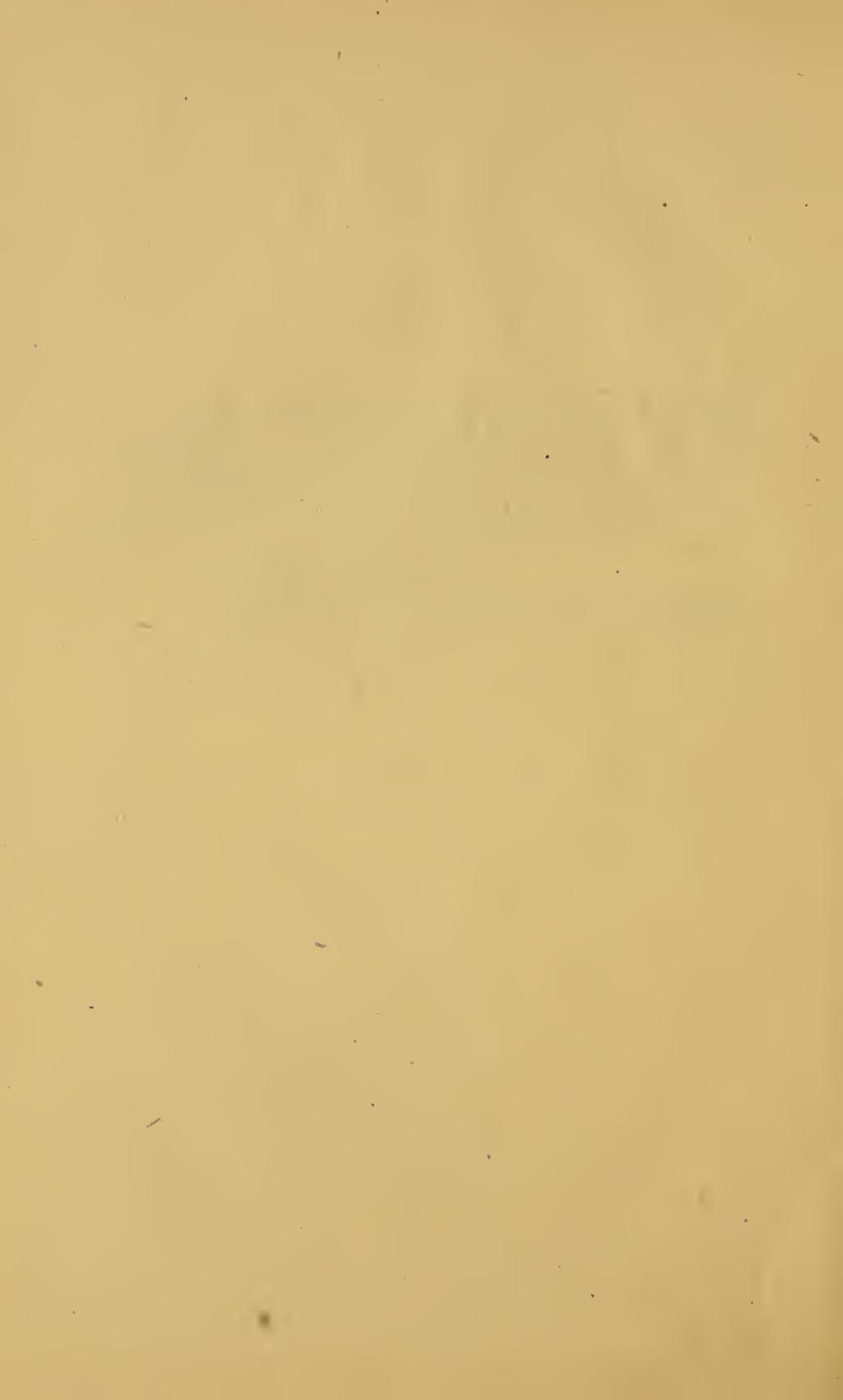
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In all cases not barred November 30, 1876, the statute of limitations does not apply to actions by township trustees for the recovery of school lands.—(See *Code of 1876, Sec. 3225*).

## ERRATA.

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- Page 25, § 56 (1138).—For “§ 1131” read, § 55 (1137).  
Page 25, § 58*a* (4382) is a part of § 58.  
Page 26, § 61 (1142).—For “appropriation” in heading of section read, apportionment.  
Page 27, *Note*.—Read accrued for “accrue” in 19th line of foot note.  
Page 27, § 64 (1145).—Read, he has, for “they have” in 4th line of the section.  
Page 32, § 90 (986).—Read 87 (983), for “983 (604).”  
Page 33.—In note to § 93 (989) add: also, § 102.



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